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STATE OF NEW YORK,  
ONE HUNDRED AND SEVENTEENTH SESSION.

1894.

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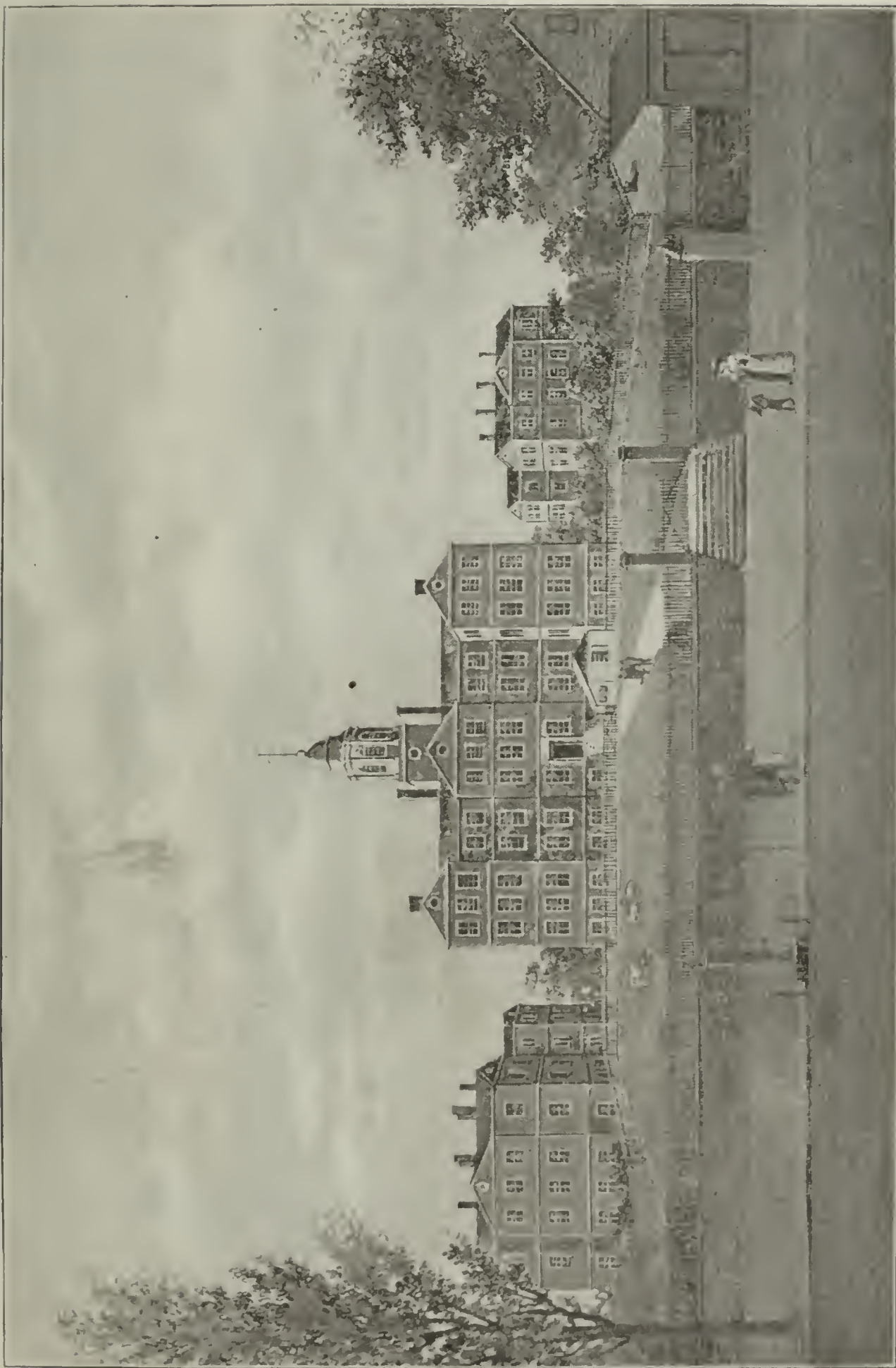
VOLUME IV — Nos. 24 to 31 INCLUSIVE.

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1894.





New York Hospital. Broadway, opposite Pearl Street. Opened for Patients January 3, 1791.



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Approach to Old Hospital





Hospital as it Appeared when Abandoned in 1869.





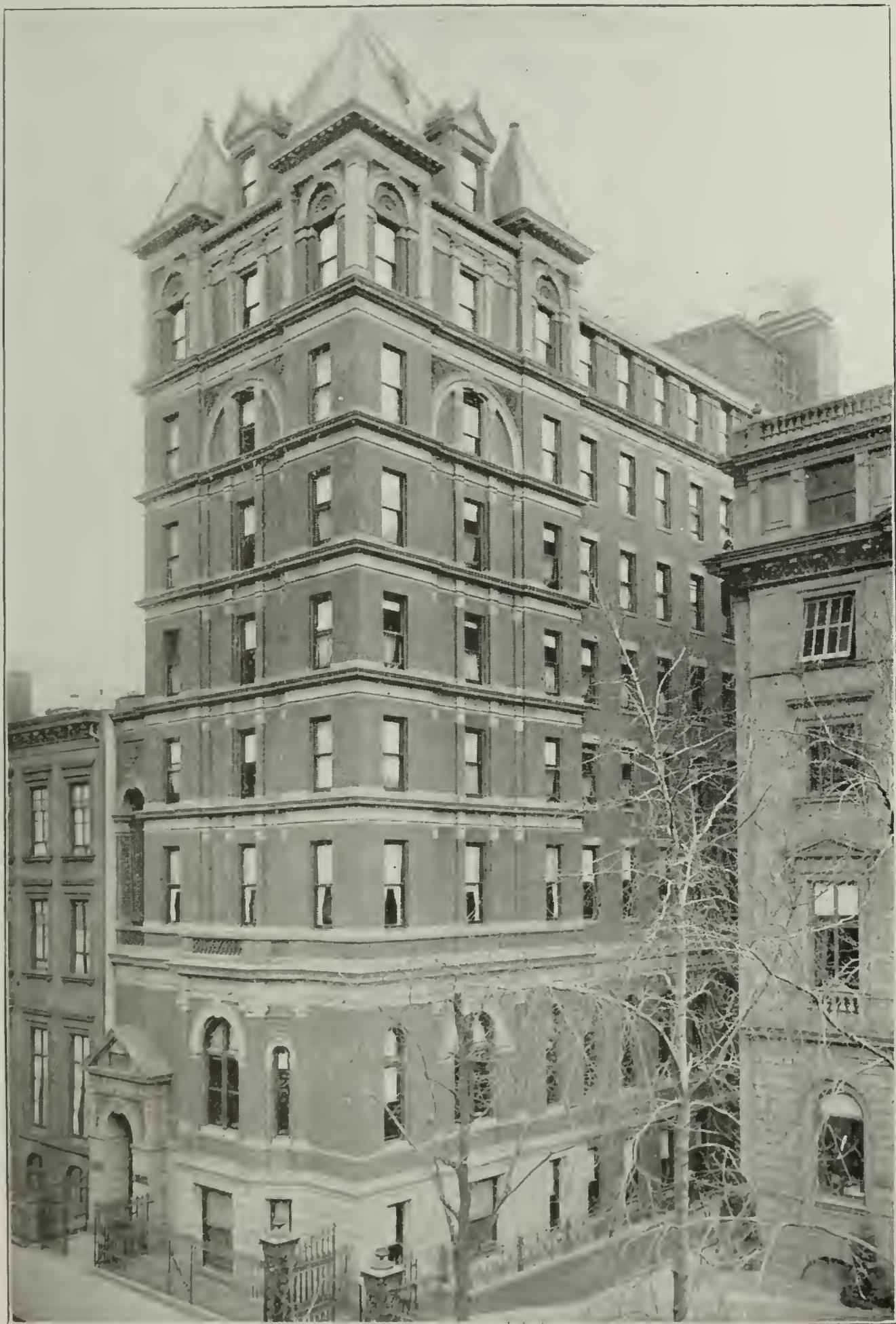
Recreation Room for Convalescents in Main Hospital.





Administration Building. West Sixteenth Street.





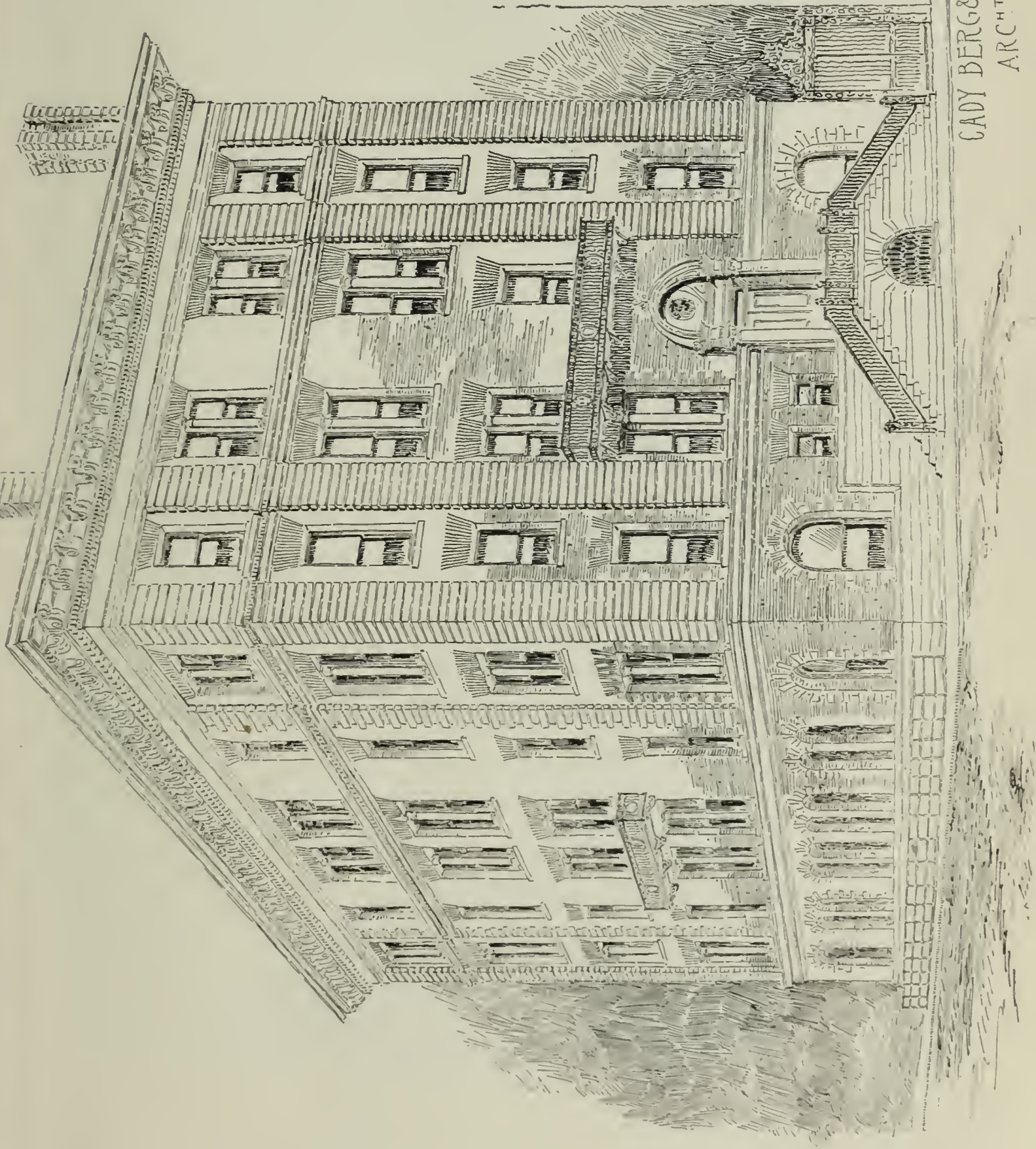
Pathological Cabinet, Library and Nurses' Home. West Sixteenth Street. Completed and Occupied, 1891.





House of Relief (formerly Police Station), 160 Chambers Street.  
1873-1894.

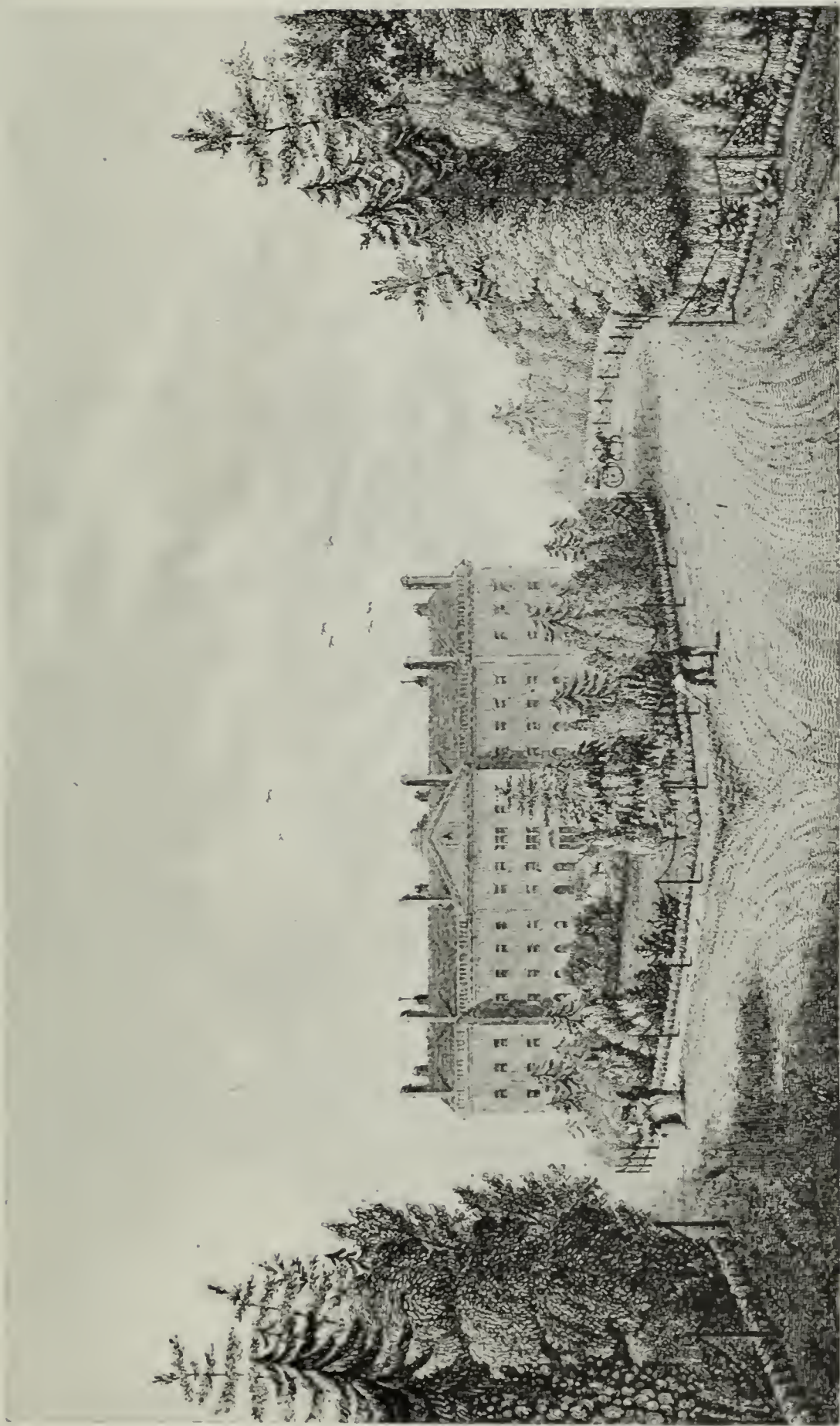




CADY BERG & SEE  
ARCHT'S N.Y.

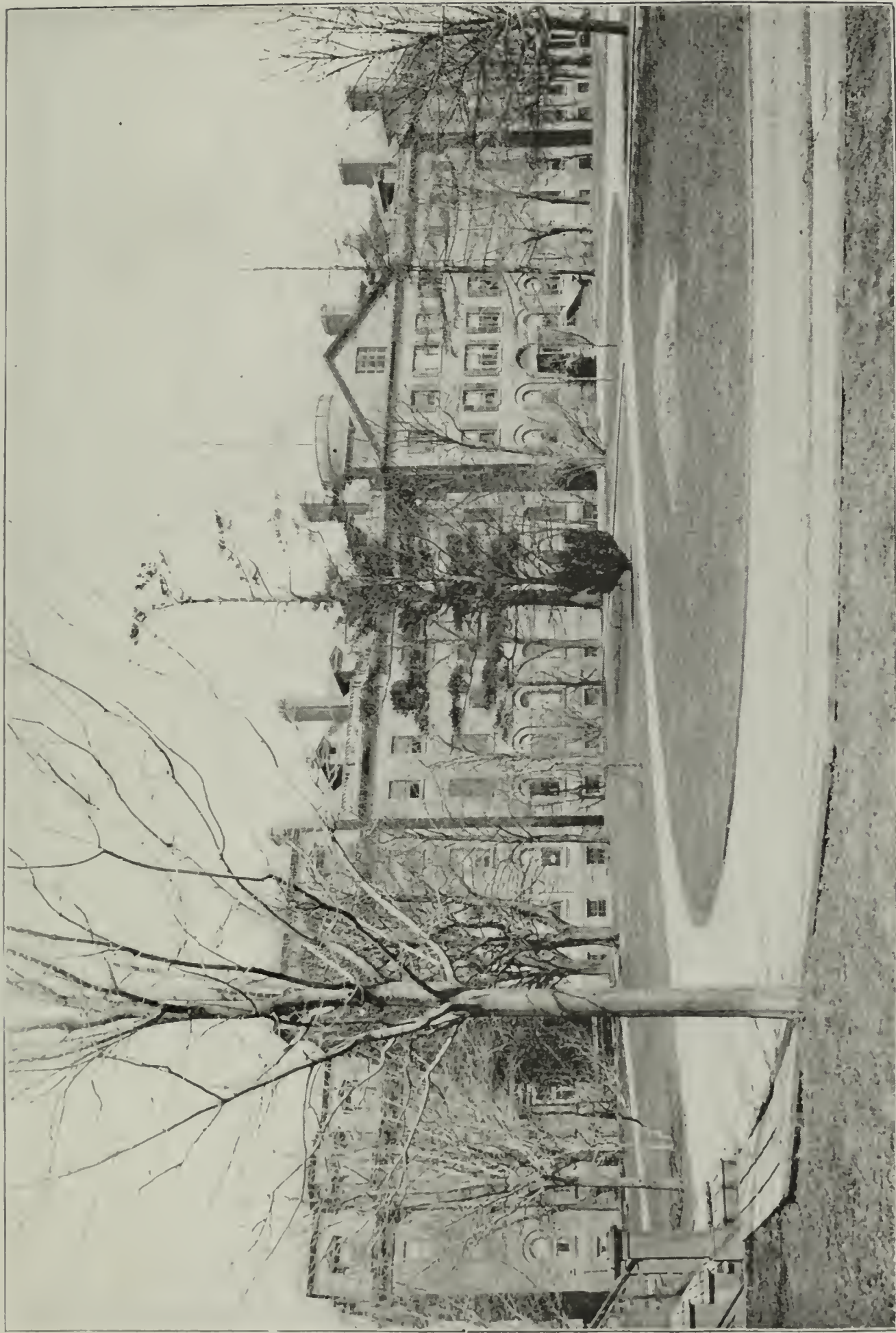
House of Relief. New Building. Hudson and Jay Streets 1894.

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Bloomingdale Asylum. Bloomingdale, N. Y. Completed and Occupied, 1821.





Bloomingdale Asylum 1891.





Approach to Asylum. Showing Grounds.







Bloomingdale. White Plains, N. Y. 1894.

# ANNUAL REPORT

328,7474

OF THE

N482

1894<sup>4</sup>

GOVERNORS

OF THE

# NEW YORK HOSPITAL

FOR THE YEAR 1893.

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TRANSMITTED TO THE LEGISLATURE APRIL, 1894.

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1894.

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---

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Served as **House Physician** during 1893.

JAMES J. MAPES, M. D.

Served as **House Surgeons** during 1893.

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GEORGE SHERRILL, JR., M. D.

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SIDNEY RAUSCHENBERG, PH. G.

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JOHN H. BURCHILL, PH. G.

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FRANK M. SUTLIFFE.

Clerk.

ERNEST P. COX.

## House of Relief, 160 Chambers Street.

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### Served as House Surgeons during 1893.

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C. CHURCHILL CARMALT, M. D.

### Clerk.

AMZI LAKE.

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## Bloomingtondale Asylum for the Insane.

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REV. JOHN P. PETERS . . . . . *Chaplain (non-resident).*

# STATE OF NEW YORK.

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No. 24.

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## IN SENATE,

APRIL, 1894.

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### ANNUAL REPORT

OF THE

Governors of the Society of the New York Hospital.

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*To the Legislature of the State of New York:*

In conformity with the provisions of its charter, the governors of the Society of the New York Hospital, present herewith the one hundred and twenty-third annual report of the several institutions under their management, located as follows:

The New York Hospital, situated in Fifteenth and Sixteenth streets, west of Fifth avenue; Bloomingdale Asylum for the Insane, occupying the grounds extending from One Hundred and Fourteenth to One Hundred and Twentieth street, and from Tenth avenue to the Boulevard; and the House of Relief, No. 160 Chambers street, for the temporary care and treatment of emergency cases; and their farm at White Plains, Westchester county.

The total number of patients receiving care and treatment in all departments of the service, for the year 1893, was 39,377, and the grand total since the commencement of hospital work, January 3, 1791, 617,005.

The proportion of patients in the wards of the several institutions receiving absolutely free treatment during 1893 was 62 per cent, and a large proportion of the remainder paid less than the actual cost of treatment.

The financial condition of this corporation on the 31st of December was:

Due on bonds of the Society of the New York Hospital	
and temporary loans .....	\$935,000 00
Less cash on hand for (building purposes) .....	145,725 66
	<hr/>
	\$789,274 34
	<hr/> <hr/>

At the New York Hospital in West Fifteenth street, the number of patients receiving medical or surgical treatment in its wards was 4,764, and the highest census of the hospital was 193 and the lowest 147, the average daily number of patients being 169. The average number of days of treatment per patient was thirteen. Of the total days of treatment of ward patients, namely, 61,536, seventy-eight per cent were absolutely free.

In the out-patient department connected with the hospital 9,249 patients were treated in its several classes, and the total number of visits of such patients amounted for the year to 40,394, and the number of prescriptions compounded 34,493.

It having been represented to the board of governors that a large number of patients, on account of their daily occupations, were unable to avail themselves of the advantages of the out-patient department during the afternoon sessions, the governors have recently established as an experiment, evening classes for two evenings in each week from 8 to 10 o'clock.

At the House of Relief, 160 Chambers street, 2,339 patients were treated in its wards, of whom 1,972 were treated only in the reception ward, a large proportion being transferred to other hospitals a few hours after admission. In the out-patient department 22,555 new patients were examined and treated, with a total attendance for the year of 65,008 visits.

The ambulance department of the New York Hospital responded to 1,433 calls and at the House of Relief to 2,844 calls, the daily average ambulance calls at the New York Hospital numbering three, and at the House of Relief seven.

The service at the House of Relief, being free in all its departments, was maintained at an expense to the society of \$21,926.46 for the year 1893.

During the past year the governors have commenced the erection, on the property at the northwest corner of Hudson and Jay streets, recently purchased by the society, of a new house of relief which will be a fire-proof building and will take the place of the present House of Relief, No. 160 Chambers street. It is expected that the new building will be completed and ready for occupancy by midsummer of the present year.

In the appendix will be found carefully prepared tables, compiled under the direction of the committee on statistics, showing the results of treatment in the various classes of disease.

At the Bloomingdale Asylum for the Insane 470 patients received care and treatment, and of the total treated 55 per cent did not pay the entire cost of their maintenance, the deficiency amounting to \$37,006.04.

In the appendix will be found the report of the medical superintendent, Dr. Samuel B. Lyon, to which reference is made for general details of the service.

The new asylum buildings for the insane on the society's farm at White Plains, N. Y., the erection of which was commenced about May 1, 1892, are now rapidly approaching completion, and it is believed the same will be finished and ready for the removal of patients thereto by July 1, 1894.

The governors have been called upon during the past year to record the loss by death of one of their esteemed associates, William Turnbull, whose death occurred on the eleventh of November last. Mr. Turnbull was elected a member of the society October 2, 1877, and a governor March 5, 1878.

MERRITT TRIMBLE,  
*President.*

HENRY W. CRANE,  
*Secretary.*

NEW YORK, *February* 6, 1894.

# Report of the Medical Superintendent.

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*To the Governors of the New York Hospital:*

GENTLEMEN. — In compliance with a by-law of your honorable board, the following report of the operations of this department of the hospital for the year 1893 is respectfully submitted:

## Table of Statistics for the Year 1893.

	Men.	Women.	Total.
There were under treatment January 1, 1893 .....	148	158	306
There were admitted in the year .....	88	76	164
	<hr/>	<hr/>	<hr/>
There were treated in the year.....	236	234	470
	<hr/>	<hr/>	<hr/>
The discharges were:			
Recovered.....	24	27	51
Improved .....	27	32	59
Unimproved .....	17	8	25
By death.....	23	10	33
	<hr/>	<hr/>	<hr/>
	91	77	168
	<hr/>	<hr/>	<hr/>
There were under treatment December 31, 1893.	145	157	302
	<hr/>	<hr/>	<hr/>
The average number under treatment was.....	145	157	302
The lowest number was:			
Men in June and July .....	135	....	....
Women, in September.....	...	151	...
The lowest total was in July.....	...	....	290
The highest number was:			
Men, in January and September.....	151	....	....
Women, in May.....	...	165	....
The highest total was in January and March.....	...	....	309
	<hr/>	<hr/>	<hr/>

### Persons and Cases.

There were four less persons, two men and two women, than cases treated, they having been once discharged and readmitted in the course of the year.

### Admissions.

Twenty-four patients, eleven men and thirteen women, had been discharged from the institution prior to January 1, 1893 — two men three times, and three men and two women twice, and six men and eleven women each once. Of those readmitted for the first time, three men and ten women were discharged as recovered, three men and one women as improved ; three men and two women had been discharged twice as recovered, and two men had been discharged three times as recovered.

One hundred and thirty-five of the admissions, seventy-four men and sixty-one women were first attacks, 124 of which, sixty-five men and fifty-nine women, were admitted first to Bloomingdale. Deducting from the whole number of admissions twenty-two cases that had been admitted in previous years; four cases discharged and readmitted during the year, and 128 first admissions in first attacks, leaves ten cases that have been either treated at home or in other institutions in previous attacks.

Eighty-six patients were admitted three months or less after the first symptoms of mental disease were noticed by their friends; sixteen between three and six months; nineteen between six and twelve months, and forty-three more than a year.

The following table shows the form of disease existing and the results obtained in the 164 cases admitted during the year:

# ADMISSIONS DURING THE YEAR 1893.

FORM OF DISEASE.	RESULT IN THOSE DISCHARGED.										CONDITION OF THOSE REMAINING.						
	Men.	Women.	Total.	RECOVERED.		IMPROVED.		UNIMPROVED.		DIED.		CONVALES'T.		IMPROVED.		UNIMPROVED.	
				Men.	Women.	Men.	Women.	Men.	Women.	Men.	Women.	Men.	Women.	Men.	Women.		
Acute mania.....	12	12	24	5	4	1	..	2	..	2	..	2	2	2	..	2	..
Subacute mania.....	7	..	7	4	..	..	..	..	..	..	..	..	1	..	..	..	..
Chronic mania.....	1	1	2	..	1	..	..	..	..	..	..	..	..	..	..	..	..
Acute melancholia .....	18	41	59	11	11	..	2	..	3	3	..	1	2	2	8	5	2
Chronic melancholia.....	1	7	8	..	1	1	..	..	..	..	..	1	1	..	2	2	2
Primary dementia. ....	2	1	3	..	..	..	..	2	..	1	..	..	..	..	..	..	..
Terminal and senile dementia...	6	2	8	..	..	2	..	1	..	1	1	..	..	..	..	2	1
Post apoplectic dementia.....	3	..	3	..	..	1	..	1	..	..	..	..	..	..	..	1	..
Primary delusional insanity.....	15	11	26	..	..	2	1	3	1	1	..	..	..	3	3	6	6
Paresis .....	21	1	22	..	..	4	..	2	..	3	..	..	..	2	1	10	..
Epileptic insanity .....	2	..	2	..	..	1	..	..	..	..	..	..	..	..	..	1	..
Total .....	88	76	164	20	16	14	17	10	3	10	4	3	3	11	17	20	16

Of the cases of acute mania, two men and one woman were alcoholic cases, and three men among the subacute cases were alcoholics.

Of the cases of acute melancholia, seven men and five women were alcoholic and narcotic cases.

The alcoholic cases were distinctly insane.

TABLE SHOWING AGE OF PATIENTS ADMITTED IN 1893.

	Male.	Female.	Total.
Under fifteen years.....	.....	.....	.....
From fifteen to twenty years.....	4	2	6
From twenty to twenty-five years .....	8	12	20
From twenty-five to thirty years .....	7	13	20
From thirty to thirty-five years .....	14	12	26
From thirty-five to forty years.....	10	14	24
From forty to forty-five years .....	11	5	16
From forty-five to fifty years .....	8	5	13
From fifty to sixty years .....	14	8	22
From sixty to seventy years .....	9	4	13
From seventy to eighty years .....	3	1	4
Total .....	88	76	164

TABLE SHOWING CIVIL CONDITION OF PATIENTS ADMITTED DURING THE YEAR 1893.

Civil condition.	Men.	Women.	Total.
Single .....	38	22	60
Married .....	44	40	84
Widowed .....	6	12	18
Divorced .....	0	2	2
Total .....	88	76	164

TABLE SHOWING HEREDITARY TENDENCY TO MENTAL DISEASE IN CASES ADMITTED DURING THE YEAR 1893.

Heredity.	Men.	Women.	Total.
Paternal branch.....	8	9	17
Maternal branch .....	10	8	18
Paternal and maternal branches.....	3	1	4
Brother or sister.....	8	6	14
Denied or unknown.....	59	52	111
Total .....	88	76	164

TABLE SHOWING, AS FAR AS COULD BE ASCERTAINED, THE EXCITING CAUSES OF THE MENTAL DISEASE IN THE PATIENTS ADMITTED DURING THE YEAR 1893.

	Male.	Female.	Total.
Injurious habits .....	27	11	38
Moral causes — includes grief, anxiety, business and domestic trouble, fright, etc...	7	24	31
Overwork .....	4	3	7
Physical decay and ill health.....	22	11	33
Pubescence and climacteric .....	.....	.....	.....
Puerperal state .....	.....	7	7
Traumatic causes.....	3	1	4
Tabes dorsalis.....	1	.....	1
Epilepsy .....	2	1	3
Sunstroke .....	.....	2	2
Unknown .....	22	16	38
Total .....	88	76	164

In view of the interest which is now felt in the remote or immediate connection between syphilis and general paresis, I append the following brief résumé of the cases of that disease admitted in 1893:

Case 1.— Male; age, 37; married; two children; salesman; duration, five months; hereditary influence denied; had syphilis years ago; formerly was intemperate, but has not drunk for several years. On admission was depressed and hypochondriacal; pupils small; increased reflexes; speech hesitating. Present condition: Is filthy, demented and destructive.

Case 2.— Male; age, 51; married; one child; civil engineer; duration, five years; father had “some mental disease;” was temperate; no history of syphilis; attack came on gradually; patient was extravagant and had mania for burning and destroying things. On admission patient was feeble; could not stand; hesitancy of speech; pupils myotic; slight tremor of facial muscles; inability to pronounce test sentences; knee-jerks absent; delusions not marked; was greatly demented. *Died* two months after admission of exhaustion of general paresis.

Case 3.— Male; age, 37; married; no children; real estate agent; duration, one month; hereditary influence denied; had syphilis when young; was very dissipated. On admission was in exalted state (first stage), with delusions of great wealth and strength; pupils unequal,

left being larger; knee-jerks lively; tongue slightly tremulous. After admission patient soon became troublesome and dictatorial, demanding impossible things; tried to escape, etc. Was removed at expiration of two months to another institution.

Case 4.—Male; age, 48; married; four children; policeman; duration, probably three years; no hereditary history; had syphilis several years ago; habits temperate. On admission was greatly excited, was noisy and fought the attendants; gait slightly unsteady; speech hesitating and ataxic; pupils irregular, right larger; tongue tremulous; knee-jerks normal. Since admission has been very changeable; at times violent, destructive and incoherent, and probably the next day would be quiet, coherent and tractable. At present continues in the general condition noted above.

Case 5.—Male; age, 52; single; saloon-keeper; duration, three month; hereditary influence denied; had syphilis several years ago; was dissipated and given to sexual excesses and sexual perversion is suspected. On admission was exalted; had delusions of great wealth and strength; pupils myotic; speech hesitating; facial muscles tremulous when speaking; knee-jerks lively; gait fairly steady. Present condition: Disease is progressing; very much demented; speech more affected; is unruly at times.

Case 6.—Male; age, 41; single; salesman; duration, two or three years; hereditary influence denied; syphilis denied; habits temperate; not a typical case; was a patient here two years ago and was discharged *improved*. On admission was dull and seemed demented; had various delusions of persecution and hallucinations of sight; hesitancy of speech; tremor of muscles about mouth when excited; gait unsteady; pupils slightly dilated; knee-jerks exaggerated; was very hypochondriacal. After admission brightened up some, and was discharged *improved* at expiration of five weeks.

Case 7.—Male; age, 42; married; dentist; duration, three months; no known hereditary tendency; no history of syphilis or intemperance; tabes dorsalis appeared four years ago; became blind two years ago; mental symptoms appeared three months ago. On admission patient was unable to stand; voice feeble and high-pitched, with slight hesitancy; knee-jerks abolished; tongue tremulous; mental faculties greatly impaired; marked delusions of persecution; refused all medicine for fear of poisoning; destructive to bed-clothing. Present condition continues about the same.

Case 8.—Male; age, 41; married; one child; theatrical manager; duration, nine months; no known hereditary influence; had syphilis

several years ago; has indulged in sexual excesses (probably unnaturally); psychic symptoms developed some months after the physical, he becoming neurasthenic and gait unsteady before mind was apparently affected, although for several years he has been subject to violent paroxysms of anger. On admission was somewhat maniacal; facial muscles tremulous; speech thick and hesitating; pupils myotic and responded slowly to light; knee-jerks exaggerated; tongue tremulous; gait unsteady; grandiose ideas. Present condition: Disease progressing rapidly; is demented; has no control over sphincters.

Case 9.—Male; age, 42; married; two children; agent Transfer Co.; duration, four months; hereditary influence denied; had syphilis some ten years ago; was temperate; two years ago suffered with headache, which was at the time said to have been due to gumma. On admission had hallucinations of sight and hearing; was restless and excitable, and suddenly *died* two weeks later.

Case 10.—Male; age, 46; single; merchant; duration, five months; uncle was insane; no history of syphilis; fairly temperate; had apoplectic stroke eight months prior. On admission was depressed, irritable and hypochondriacal; grandiose ideas; ataxic gait; reflexes abolished; pupils irregular. Present condition: Is at times excitable; is growing more demented; occasionally soils clothes.

Case 11.—Male; age, 49; single; railroad agent; duration, one year; heredity denied; had syphilis several years ago; was periodical drinker. On admission speech is aphasic and hesitating; gait unsteady; is demented; memory greatly impaired; tongue tremulous; knee-jerks normal; had general feeling of well-being, and delusions of great wealth. Present condition: Is feeble and confined to bed; has had several epileptiform convulsions of short duration; no control over sphincters.

Case 12.—Male; age, 48; married; two children; railroad employe; duration, ten months; no hereditary history; had syphilis nine years previously; was liberal liver; would be called intemperate; at beginning of disease had usual symptoms of exaltation, with delusions of great wealth. On admission was quiet and composed; did not think anything was the matter, or that he should be here; was talkative, tractable and easily influenod; speech hesitating; gait unsteady; pupils irregular; exaggerated reflexes; memory impaired. Patient was removed at expiration of two months in about the same condition as when admitted.

Case 13.—Male; age 43; single; merchant; duration, one month; mother had senile dementia; brother had paresis; probably had syphilis, and was intemperate; was probably given to sexual excesses.

On admission patient was composed and cheerful, exalted and self-confident; claimed there was nothing the matter with him; pupils were small and responded to light; knee-jerks lively; tongue showed fibrillary tremor; patient was discharged at expiration of six weeks on authority of sheriff's jury.

Case 14.—Male; age, 56; single; publisher; duration, two years; father was insane; no history of syphilis or intemperance; patient naturally of nervous temperament; had two slight epileptiform seizures prior to admission. On admission had fracture of tibia and fibula of two weeks standing; was very delusional and had hallucinations of sight and hearing; general physical exaltation with ideas of great strength; speech hesitating; memory impaired; pupils unequal; tongue inclined to dryness. Present condition: Is able to get about on crutches; seems to be free of delusions; there is great mental impairment.

Case 15.—Male; age 37; married; one child; merchant; duration, nine months; no hereditary history; no history of syphilis; was dissipated and was probably given to sexual excesses; had an attack previously and seemed to recover entirely. On admission was wildly maniacal; delusions of great wealth and strength; pupils unequal; tongue tremulous; incoherent and destructive; refused all medicine. Present condition continues about the same, exhibiting the symptoms of the maniacal stage of general paresis.

Case 16.—Male; age, 41; married; two children; fire-engine driver; duration, 6 weeks; maternal grandmother and two uncles were insane, and committed suicide; claims to have had syphilis several years ago; not intemperate. On admission patient had delusion that he was suffering from various diseases and was greatly depressed; pupils equal; speech slow and drawling; tongue not tremulous; left knee-jerk is lively, right is slight. Present condition: Is depressed and very hypochondriacal.

Case 17.—Male; age, 50; single; merchant; duration, three months; no hereditary history; his former physician thinks he (the patient) exhibited symptoms of secondary syphilis; patient denies this; has probably indulged in sexual excesses. Prior to admission he became prodigal, extravagant, erratic, etc.; he came willingly; was composed and coherent; since that time he has changed but little; pupils contracted and irregular; gait slightly unsteady; tremor of muscles of face; knee-jerks absent. Present condition: Patient is restless and wants to get away; claims that there is nothing the matter, and that he should not have been sent here.

Case 18.—Female; age, 24; married; duration, one year; father died of traumatic insanity; patient had syphilis four years ago; habits

dissipated. On admission she was in the second stage of the disease; had delusions of wealth; hallucinations of sight and hearing; tongue tremulous; pupils contracted and sluggish; reflexes diminished; gait unsteady; speech thick; patient incoherent and greatly demented; has syphilitic eruption on body. Patient continues in about the same general condition.

Case 19—Male; age, 35; married; no children; musician; duration, two years; formerly drank to excess; history as to syphilis and hereditary influence unascertained. On admission was dull, stupid and heavy; pupils contracted and reacted slowly; tongue tremulous; memory impaired; speech drawling; gait unsteady; knee-jerks lively. Present condition: Dull, stupid and demented; has no appreciation or condition; incoherent.

Case 20—Male; age, 38; married; no children; merchant; duration, six weeks; has history of sexual and alcoholic excesses; syphilis denied; sister was insane. On admission was exalted; had delusion of great wealth; speech hesitating; pupils irregular; tongue tremulous; knee-jerks marked; is nervous and emotional. Present condition; Childish, emotional and self-confident, exhibiting physical and mental signs of general paresis.

Case 21.—Male; age, 50; single; jeweler; duration, one year; said to have been temperate; was given to sexual excesses; “probably had syphilis” several years before; hereditary influence unascertained. On admission was dull, confused and demented; no marked hesitancy of speech; pinhole pupils; tremulous tongue; knee-jerks absent; gait unsteady. Patient failed rapidly and lost power of right extremities and *died* five weeks after admission. Autopsy showed syphilitic changes in the coats of the vessels, etc.

Case 22.—Male; age, 44; married; no children; lawyer; duration, four months; drank and smoked to excess; had syphilis eighteen years previously; hereditary influence denied. On admission pupils were irregular; knee-jerks lively; tongue pale and flabby, and slightly tremulous; muscles of face slightly tremulous, especially when speaking; slight hesitancy of speech; gait slightly unsteady. At present disease has made no marked progress since admission; patient is irritable, impatient, fault-finding and talkative; easily diverted.

*Table showing the number of cases of general paresis admitted during the year 1893, and their relation to syphilis.*

Number who have had syphilis uncomplicated . . . . .	2
Number who have had syphilis and indulged in sexual excesses . . .	1
Number who have had syphilis and were intemperate . . . . .	8

Number who have had syphilis in which there was an hereditary tendency .....	1
Number who have probably had syphilis .....	1
Number who have probably had syphilis, intemperate and hereditary influence.....	1
Number in which there was an hereditary tendency toward insanity,	3
Number in which there was an hereditary tendency and sexual excesses .....	1
Number who were intemperate.....	2
Number in which there was no history of syphilis, intemperance or hereditary .....	2
	<hr/>
	22
	<hr/>

The length of time since the syphilitic attack varied from four years; the most recent period to eighteen years, the usual period being designated as “several years ago ” --implying a rather distant date.

Discharges.

The number of recoveries was fifty-one, twenty-four men and twenty-seven women. They were thirty per cent of all discharges, including deaths; twenty-six per cent of the men who were discharged or died and thirty-five per cent of the women who were discharged or died.

Thirty-four patients, seventeen men and seventeen women, recovered from the first attack; eleven, three men and eight women, from the second; six, four men and two women, from the third attack.

In the cases that recovered, the average duration of the disease from invasion to recovery was ten months and twenty days; of the men seven months and four days, and of the women fourteen months and four days. The average duration of treatment was seven months and twenty days; of the men five months and ten days, and of the women ten months. The longest period of treatment was four years of one man, and ten years and ten months of one woman; the shortest was fifteen days of one man, and seven days of one woman.

The disease was reported to have existed before admission an average of five months -- two months in men and two months and seven days in women.

Thirty-three patients, fourteen men and nineteen women, recovered from melancholia; and eighteen, ten men and eight women, from mania.

Of the fifty-nine cases, twenty-seven men and thirty-two women, who were discharged improved; thirteen, three men and ten women, seemed likely at the time of their removal by friends to have been transferred

to the recoveries this or next year had their treatment been continued without interruption for a sufficient length of time.

Of the twenty-five patients, seventeen men and eight women, who were discharged unimproved, one man and one woman seemed likely to recover.

### Deaths.

The number of deaths was thirty-three, twenty-three men and ten women; twelve men and two women died of general paralysis; two women died of uncomplicated senile dementia; one man died of uncomplicated terminal dementia; one woman died of terminal dementia and cerebral apoplexy; one man died of post-paralytic dementia, and one man of terminal dementia, fatty heart and nephritis. Seven cases of acute melancholia died, one man each of acute bronchitis, of pneumonia, of phthisis and of empyemia; one woman of fatty degeneration of the heart; one of acute diarrhœa (after weeks of forcible alimentation) and one of phthisis pulmonalis. One case of chronic melancholia died, a woman with chronic bronchitis and emphysema. Two cases of acute mania died, one man from simple exhaustion and one from fracture at base of skull, received prior to admission. Two cases of chronic mania died, both men and both from fatty degeneration of the heart. One case of primary delusional insanity died, a woman from exacerbation of chronic diffuse peritonitis and gastritis.

The nine deaths in acute diseases occurred after they had been under treatment an average of four months and three days. The longest period of treatment was one year, the shortest three days.

The ten chronic cases, other than paretics were under treatment for periods ranging from forty-five years and ten months and fourteen days to fourteen days. One patient had been here forty-five years, ten months and fourteen days, one forty-five years, seven months and twenty-one days, one forty years and one twenty years. The average time they spent in the institution having been seventeen years and twenty days.

In the cases of paresis, twelve men and two women, the longest period of their hospital treatment was seven years, three months and three days, the shortest period was fourteen days; the average duration five months and sixteen days. The longest time from marked manifestations of disease was six years and one month, the shortest four months and two weeks; the average was three years and one week.

The deaths were at the rate of seven per cent of the persons treated; in the men ten per cent and in the women four per cent.

There were twenty more admissions this year than last.

Eighty-six women were beneficiaries of the John C. Green Memorial Fund during the year 1893. The amount of income received from that fund, and expended for these women in 1893, was \$9,767.80. The total charitable expenditures during 1883 in caring for and treating patients largely acute and presumably hopeful cases, who were unable to pay the lowest rates charged anywhere else in the State for private patients was \$37,006.04. Two hundred and fifty-nine different individuals shared in this assistance, some being entirely and others partially supported. The sum of \$27,238.24 was expended for this purpose from the funds of the corporation during the year 1893. Seven per cent of those treated contributed nothing whatever to their support. Twenty per cent paid less than half the cost of their care. Fifty-five per cent paid from the bare cost of their care to nothing. Only forty-five per cent paid any profit to the institution, which receiving no public money or State or city aid, is self-supporting, and devotes all excess of its receipts over its expenses to the improvement of the institution, and the support of its beneficiaries.

The average number of patients of all kinds in the institution during the year was 302, four more than the average of the preceding year.

Nothing unusual or untoward has to be reported for the year 1893.

Our weekly picnics occurred as heretofore. Seventeen parties went up during the summer for the day, returning at night, and no mishap occurred to mar the pleasure of these excursions.

The institution orchestra, varying from six to eight pieces, has been available for all social occasions, and has accompanied the picnic parties on Tuesdays, and played for the weekly base-ball game on Fridays, through the warm season, and furnished music for various other entertainments during the year.

Repairs and improvements have virtually ceased here, the funds available for such use have been used in smoothing and subduing the lands about the new institution, which, it is expected, will be ready for occupancy, within and without, before midsummer.

The total net expenditure for supporting the Bloomingdale Asylum for the year 1893 was \$1,271.28 less than for the year 1892. The average number of patients was somewhat larger; the expenditure for repairs and improvements was little, but all was kept neat and efficient, and the standard of comfort and hospital treatment was not reduced.

The number of weeks board and treatment furnished for patients was 15,747 $\frac{1}{4}$ .

The average expenditures per patient was \$10.44 per week, not including the reimbursement to the institution by the friends of patients of the wages paid for private attendants.

No change in the medical staff took place during the year.

It is again a pleasure to be able to state that those connected with the institution in position other than medical, but still calling for the exercise of faithfulness, judgment and tact, have, with very few exceptions, acquitted themselves to the satisfaction of the superintendent, and those immediately in charge of them, and are entitled to the appreciation of the society.

It is proposed soon to issue to the medical profession and to the friends of the patients, in a circular form, the following information, so that the state of uncertainty in their minds respecting the movement from the old to the new place, and the effect upon the persons concerned may be as transient as possible. It is desired to minimize the inconvenience to all as much as may be, and it is confidently believed that any temporary inconvenience involved in the change will be more than balanced by the greater success and comfort for all in the new situation, and the enlarged ability of the institution to carry out all parts of its noble mission.

*To the Medical Profession and Friends of the Institution:*

The present expectation is that the medical work now carried on in the Bloomingdale Asylum at One Hundred and Seventeenth street, between Amsterdam avenue and the Boulevard, will be transferred to the new Bloomingdale, White Plains, Westchester county, N. Y., where for the last two years an institution of the most modern and liberal character has been in preparation, which is now nearly completed.

It is confidently believed that the new Bloomingdale will contain all essentials for the best care and treatment of the insane of the class among which the work of the society has lain for so many years. The new buildings are of the pavilion type, loosely grouped together, of a cheerful appearance, and are situated upon an elevation from which pleasant inland views are obtained on all sides. They are in the midst of extensive grounds, well adapted to the out-door enjoyments of the patients. The immediate surroundings of the institution will be comfortable and attractive. Elevators, electric lighting, many single and connected rooms for the individualizing of cases, special departments for hydro-therapeutics, electro-therapeutics, massage, etc., are incorporated in the plan, and it is expected that these will be, in their proper places, essential features of the treatment.

No break will take place in the work of the hospital on account of its change of location.

The new institution may be reached by the Harlem railroad by some thirty daily trains, a dozen of which are express trains which make the trip in less than three-quarters of an hour. Public conveyances are always at the depot to convey passengers to the institution, which is about twelve minutes further, and a special mode of transit may be provided, if the necessity seems to justify it.

The transfer of patients from New York to the new institution will be made at the season of the year when such residents of cities as are able, are accustomed to go for some months to the country, and the new institution is situated in a region which attracts many such summer residents, on account of its healthfulness, pleasant drives and ready accessibility from New York.

The medical superintendent may be seen on Mondays from 3 to 4 o'clock, and some medical officer on Wednesdays and Saturdays from 12 to 1 o'clock, holidays excepted, at the New York Hospital, 8 West Sixteenth street, New York city, by persons desiring to inquire about patients, or to obtain other information regarding the institution.

In this seventy-second, and presumably last annual report issuing from the Bloomingdale Asylum in New York city, it is our inclination to become reminiscent, looking backward over the years which have passed since nearly three generations ago, broad-minded and far-seeing members of your board of governors of the New York Hospital, founded on this hill the handsome institution we still occupy, and which was for those times, the most advanced provision in all this region, for the humane and enlightened care of the insane.

The truth had not then been long recognized by the medical profession as a whole, and much less by the community in general, that insane persons were not properly outcasts, to be condemned and reprobated for their perversity, and punished for their misbehavior, but rather sick people, to be treated for their disease, and the purpose was only just arising in men's minds of making these unfortunates physically comfortable in their mentally deplorable state, and of giving them as good an opportunity to recover from their disease as was enjoyed by the other classes of the sick.

For many years Bloomingdale occupied the field in this region alone. Our city asylums did not exist. State hospitals had not been more than dreamed of. It can not be otherwise than true that this venerable institution, during those early years, did as important a work in educating the advancing sentiment of the time, as to the humane aspects of the

insane problem, as it did in immediately caring for the small number of individuals who came within its walls. This humane sentiment has now expanded till it has made the insane man the ward and particular care of the community, but it was of slow growth at first, and all honor is due to the noble men, lay and professional, who made it part of their creed in those early days, when Bloomingdale was founded by them. Not to cherish the sentiment in these latter days marks a man as being behind the procession, but it was not so at first. Particular praise is due to those persons, in and out of your board, who, truly calling themselves "friends," were among the very first to recognize their insane "brother."

In the great expansion of the provision for the insane, now scattered with a pretty even distribution through the land, it is not generally known, or it is too often forgotten, how much of the seed of this growth was raised at Bloomingdale; but we must not be unmindful of it, it is a priceless legacy. The physicians who in succession have presided over this hospital, from Dr. John Nelson, who opened it, to Dr. Charles H. Nichols, not long since deceased, embracing Pliny Earle, James Macdonald and D. Tilden Brown, were always the able and ready counselors to new boards and committees, who were charged by the communities in which they lived, to found new centers of healing for the insane, and who were anxious to found them in knowledge. These distinguished physicians from within these walls, and their many disciples who went out from them to carry their knowledge and belief to new fields, were ever active in diffusing the enlightened sentiment that there is no nobler work of medical science or Christian charity than that involved in the best care and treatment of the insane, a sentiment which is so expansive as to embrace all civilized communities.

As in building a small pavilion in the old New York hospital grounds in 1806 for the insane, till then since 1797 confined in a basement ward, you took a real step forward, and later made an immense advance when you replaced the out-grown pavilion by the Bloomingdale Asylum in 1821, it is our earnest hope that the present movement, from this venerable but antiquated abode, to the wider range and greater opportunities afforded by the new Bloomingdale, White Plains, may be another and decided progress in the scientific and humane care and treatment of the insane, which has so long been one of the missions of your honored society.

I am yours, very respectfully.

SAMUEL B. LYON,

*Medical Superintendent.*

YEAR.	Admitted.	Whole num- ber during the year.	Whole number discharged and died.	Recovered.	Improved.	Not improved.	Died.	Voluntary, not insane.	Remaining at end of year.	Average number.
1821 to 1871 .....	6,325	.....	6,150	2,769	1,460	1,109	812	.....	.....	.....
1872.....	124	299	129	46	37	25	21	.....	170	176
1873.....	115	285	96	31	29	24	12	.....	189	174
1874.....	110	299	124	25	56	24	19	.....	175	183
1875.....	112	287	96	34	31	8	23	.....	191	182
1876.....	98	289	115	35	33	26	21	.....	174	186
1877.....	81	255	93	18	34	19	22	.....	162	167
1878.....	109	271	83	25	43	6	9	.....	188	178
1879.....	77	265	81	29	35	11	7	.....	184	182
1880.....	114	298	84	24	30	7	23	.....	214	202
1881.....	129	343	119	46	48	9	16	.....	224	226
1882.....	106	330	107	39	34	11	23	.....	223	233
1883.....	141	364	120	36	39	27	18	.....	244	235
1884.....	136	380	136	55	27	27	27	.....	244	253
1885.....	176	420	148	53	43	24	28	.....	272	261
1886.....	177	449	178	67	45	28	37	1	271	272
1887.....	202	473	185	42	62	57	23	1	288	283
1888.....	187	475	179	52	53	36	38	.....	296	300
1889.....	169	465	159	42	65	27	25	.....	306	306
1890.....	161	467	162	34	75	21	32	.....	305	306
1891.....	148	453	155	39	63	15	38	.....	298	304
1892.....	144	442	136	43	30	19	38	.....	306	298
1893.....	164	470	168	51	59	25	33	.....	302	302
Total .....	9,305	.....	9,003	3,635	2,436	1,585	1,345	2	.....	.....

## Report of the Treasurer.

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The receipts and payments of the Society of the New York Hospital from all sources and on all accounts, for the year 1893, are as follows :

### RECEIPTS.

Balance cash on hand January 1, 1893 .....	\$60,651 55
On account of board and treatment of patients in the several departments of the service.....	259,057 37
One year's income from the John C. Green memorial fund.....	9,767 80
Rents and ground rents .....	166,150 36
On account sale real estate twelfth ward ....	400,000 00
Bonds of the society sold, proceeds to be used for building purposes.....	435,000 00
Temporary loans, proceeds to be used for building purposes .....	260,000 00
Principal on account of mortgages paid off: Investment account, John C. Green memorial fund.....	21,670 00
Donations, subscriptions, interest, etc.....	1,797 95
Balance of deposit in trust company.....	2,902 87
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	\$1,616,997 90

### PAYMENTS.

On account of support of patients in its several departments.....	\$443,661 67
One year's income from John C. Green memorial fund,	9,767 80
Expenses of pathological department.....	3,798 00
Drafts of building committee on account of construction new asylum at White Plains.....	690,814 01
Drafts of building committee on account of construction, new house of relief .....	64,129 49
Final payments on account, alterations to building 317 Broadway .....	7,439 25
Real estate for new house of relief .....	135,000 00

Real estate, No. 10 West Sixteenth street.. . . . . .	\$42,500 00
Temporary deposit Union Trust Company: Investment account John C. Green memorial fund . . . . .	20,572 50
Interest on hospital bonds and loans . . . . .	20,630 39
City taxes and assessments . . . . .	22,542 73
Insurance and legal service . . . . .	8,866 40
Oil portrait of Dr. Thomas M. Markoe . . . . .	1,540 00
Balance cash on hand December 31, 1893 . . . . .	145,725 66
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	\$1,616,997 90 .
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The excess of expenditures over receipts, on account of support of patients in the several departments of the service for 1893, was \$184,604.30.

CORNELIUS N. BLISS,  
*Treasurer.*

The undersigned, a committee appointed in obedience to the by-laws to audit the accounts of the society, have examined the same and find them correct.

THEODORUS B. WOOLSEY,  
H. H. CAMMANN,  
W. P. BROWN,  
*Committee.*

NEW YORK, *February* 1, 1894.



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A N N U A L R E P O R T

OF THE

COMMITTEE ON STATISTICS

OF THE

N E W Y O R K H O S P I T A L

FOR THE

Y E A R E N D I N G D E C E M B E R 3 1 , 1 8 9 3 .

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IN-PATIENTS — MEDICAL.

DIAGNOSIS.	Males.	Females.	Cured.	Improved.	Unimproved.	Died.	Number of days in hospital.
CONSTITUTIONAL DISEASES.							
<i>Diabetes.</i>							
Diabetes, mellitus.....	4	2	1	4	1	.....	124
Diabetes, mellitus, coma from .....	1	.....	.....	.....	.....	1	2
<i>Gout.</i>							
Gout, chronic.....	1	.....	.....	1	.....	.....	111
Gout, chronic, exacerbation of.....	1	.....	1	.....	.....	.....	20
Gout, rheumatic .....	.....	1	.....	1	.....	.....	18
Gout, rheumatic, subacute .....	1	.....	.....	1	.....	.....	27
Gouty diathesis.....	1	.....	.....	1	.....	.....	7
<i>Purpura.</i>							
Purpura, hæmorrhagica.....	1	1	.....	.....	.....	2	6
Purpura, simplex .....	1	.....	.....	1	.....	.....	9
<i>Rheumatism.</i>							
Arthritis, deformans .....	.....	1	.....	.....	1	.....	1
Arthritis, rheumatoid .....	2	.....	.....	2	.....	.....	67
Rheumatic fever.....	1	.....	1	.....	.....	.....	23
Rheumatic synovitis of knee .....	.....	1	1	.....	.....	.....	10
Rheumatism .....	3	1	.....	4	.....	.....	5
Rheumatism, acute.....	50	25	66	8	1	.....	1,372
Rheumatism, chronic.....	6	5	.....	11	.....	.....	338
Rheumatism, gonorrhœal.....	6	1	4	3	.....	.....	208

70  
8  
218

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1  
1  
6

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2

3  
1  
6

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2

Rheumatism, muscular (lumbago) .....  
Rheumatism, muscular, dorsal myalgia .....  
Rheumatism, subacute .....  
DISEASES OF THE BLOOD AND DUCTLESS GLANDS.  
*Diseases of the Blood.*

120  
234  
4  
80

4  
1  
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6  
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1

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8  
1  
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2  
15  
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2  
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1  
1

Anæmia, pernicious .....  
Anæmia, primary .....  
Anæmia, secondary .....  
Hodgkin's disease.....  
*Diseases of the Glands.*

18  
21

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1

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1  
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1  
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1

Exophthalmic goitre .....  
Lympho sarcoma .....  
DISEASES OF THE CIRCULATORY SYSTEM.  
*Diseases of the Heart.*

8  
1,513  
84  
14  
210  
17  
6  
1  
145  
9  
36  
17  
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Endocarditis, acute .....  
Endocarditis, chronic .....  
Endocarditis, chronic, exacerbation of.....  
Endocarditis, ulcerative .....  
Heart, atrophy of .....  
Heart, dilatation of .....  
Heart, dilatation and fatty degeneration of.....  
Heart, fatty .....  
Heart, hypertrophy and dilatation of .....  
Myocarditis .....  
Myocarditis, fibrous .....  
Neuroses (angina pectoris) .....  
Neuroses (angina pseudo) .....  
Neuroses (syncope).....

# IN-PATIENTS — MEDICAL — (Continued).

DIAGNOSIS.	Males.	Females.	Cured.	Improved.	Unimproved.	Died.	Number of days in hospital.
<i>Diseases of the Pericardium.</i>							
Pericarditis .....	2	.....	1	.....	.....	1	37
<i>Diseases of the Vessels.</i>							
Aneurism, aorta .....	2	1	.....	1	.....	2	124
Aneurism, dissecting .....	1	.....	.....	.....	.....	1	2
Aneurism, innominate .....	2	.....	.....	2	.....	.....	239
Aneurism, varicose and aneurismal varix .....	1	.....	.....	.....	.....	1	33
Endarteritis, chronic (general) .....	1	.....	.....	.....	.....	1	8
Phlebitis, femoral .....	1	.....	1	.....	.....	.....	33
DISEASES OF THE CUTANEOUS SYSTEM.							
Burn of chest and abdomen .....	.....	1	.....	1	.....	.....	10
Cellulitis .....	2	.....	.....	1	1	.....	5
Cyst of scalp .....	.....	1	.....	1	.....	.....	1
Dermatitis .....	1	.....	1	.....	.....	.....	13
Eczema, acute .....	3	.....	2	1	.....	.....	29
Eczema, chronic, exacerbation of .....	1	.....	1	.....	.....	.....	17
Erythema, general .....	.....	1	.....	1	.....	.....	11
Varicose ulcer .....	.....	2	1	1	.....	.....	20
Ulcer of leg .....	1	.....	.....	1	.....	.....	27
DISEASES OF THE DIGESTIVE SYSTEM.							
<i>Diseases of the Mouth.</i>							
Alveolar abscess .....	1	.....	1	.....	.....	.....	22

Stomatitis .....	2	.....	1	.....	1	.....	.....	18
<i>Diseases of the Salivary Glands.</i>								
Parotiditis .....	1	.....	1	.....	.....	.....	.....	5
<i>Diseases of the Pharynx.</i>								
Pharyngitis .....	5	1	5	.....	1	.....	.....	35
<i>Diseases of the Tonsils.</i>								
Tonsillitis, follicular .....	10	4	14	.....	.....	.....	.....	76
Tonsillitis, suppurative .....	3	5	8	.....	.....	.....	.....	59
<i>Diseases of the Stomach.</i>								
Cancer of the stomach .....	2	2	.....	.....	3	.....	1	134
Dyspepsia .....	.....	2	1	.....	1	.....	.....	6
Functional disturbance of the stomach .....	1	.....	.....	.....	1	.....	.....	1
Gastritis .....	.....	1	.....	.....	1	.....	.....	6
Gastritis, acute .....	9	11	14	.....	4	2	.....	161
Gastritis, alcoholic. ....	16	5	15	.....	5	1	.....	135
Gastritis, chronic .....	11	12	.....	.....	23	.....	.....	407
Gastritis, subacute .....	8	8	11	.....	5	.....	.....	235
Hæmatemesis .....	2	.....	1	.....	1	.....	.....	12
Neuroses of stomach (gastralgia) .....	1	.....	1	.....	.....	.....	.....	6
Neuroses of stomach (vomiting of pregnancy) .....	.....	1	.....	.....	1	.....	.....	40
Ulcer of the stomach .....	.....	4	4	.....	.....	.....	.....	213
<i>Diseases of the Stomach and Intestines.</i>								
Gastro-duodenitis, acute ..	.....	2	1	.....	1	.....	.....	36
Gastro-enteritis, acute .....	3	5	8	.....	.....	.....	.....	67

IN-PATIENTS — MEDICAL — (Continued).

DIAGNOSIS.	Male.	Female.	Cured.	Improved.	Unimproved.	Died.	Number of days in hospital.
<i>Diseases of the Intestines.</i>							
Appendicitis .....	.....	1	1	.....	.....	.....	8
Cholera infantum .....	2	1	.....	1	.....	2	9
Cholera morbus .....	2	.....	1	1	.....	.....	4
Colic, intestinal .....	11	2	10	3	.....	.....	38
Colic, lead .....	1	.....	1	.....	.....	.....	15
Colitis, chronic .....	1	.....	.....	1	.....	.....	36
Colitis, subacute .....	1	.....	1	.....	.....	.....	40
Constipation .....	2	6	8	.....	.....	.....	62
Diarrhœa .....	7	2	6	3	.....	.....	172
Diarrhœa, chronic .....	2	2	.....	3	.....	1	285
Enteritis, acute .....	3	2	5	.....	.....	.....	86
Enteritis, membranous .....	.....	1	.....	1	.....	.....	5
Enterocolitis .....	2	.....	1	.....	.....	1	28
Indigestion, intestinal .....	1	.....	1	.....	.....	.....	35
<i>Diseases of the Liver.</i>							
Abscess of the liver .....	1	.....	.....	1	.....	.....	45
Cancer of the liver .....	1	.....	.....	.....	.....	1	2
Cirrhosis of the liver .....	10	4	.....	10	.....	4	334
Fatty and cirrhotic liver .....	1	.....	.....	1	.....	.....	24
<i>Diseases of the Bile Passages.</i>							
Colic, biliary .....	5	.....	3	2	.....	.....	52
Jaundice, acute catarrhal .....	4	.....	2	2	.....	.....	68

*Diseases of the Peritoneum.*

Ascites.....	1	6	5	2	.....	52
Cancer of the peritoneum.....	2	.....	.....	.....	2	37
Peritonitis.....	1	2	1	.....	2	102
Peritonitis, pelvic.....	.....	13	7	6	.....	289

DISEASES OF THE EYE AND EAR.  
*Diseases of the Eye.*

Choroiditis.....	.....	1	.....	1	.....	19
Otitis media, acute.....	.....	1	.....	1	.....	22
Otitis media, chronic.....	3	.....	.....	3	.....	133

DISEASES OF THE GENERATIVE SYSTEM.  
*Diseases of the Fallopian Tubes.*

Pyosalpingitis.....	.....	1	.....	.....	1	1
Salpingitis.....	.....	6	3	2	1	107

*Diseases of the Uterus.*

Abortion.....	.....	8	8	.....	.....	158
Cancer of the uterus.....	.....	1	.....	.....	1	19
Dysmenorrhœa.....	.....	1	.....	1	.....	13
Endometritis, cervical.....	.....	1	.....	1	.....	13
Fibroids, uterine.....	.....	1	.....	1	.....	43
Harmatocœle, pelvic.....	.....	1	.....	1	.....	57
Menorrhagia.....	.....	1	.....	1	.....	4
Metrorrhagia.....	.....	7	5	2	.....	97
Pregnancy.....	.....	1	.....	1	.....	3

# IN-PATIENTS — MEDICAL — (Continued).

DIAGNOSIS.	Males.	Females.	Cured.	Improved.	Unimproved.	Died.	Number of days in hospital.
<i>Diseases of the Vagina.</i>							
Vaginitis, traumatic.....	.....	1	.....	1	.....	.....	1
<i>Diseases of the Vulva.</i>							
Vulvitis .....	.....	3	3	.....	.....	.....	108
Vulvitis, gonorrhœal.....	.....	1	1	.....	.....	.....	10
DISEASES OF THE NERVOUS SYSTEM.							
<i>Diseases of the Brain.</i>							
Abscess .....	1	.....	.....	.....	.....	1	12
Embolism .....	2	.....	1	1	.....	.....	7
Endarteritis.....	1	1	.....	1	1	.....	40
Hemorrhage .....	2	1	.....	.....	.....	3	14
Hemiplegia .....	2	5	.....	6	1	.....	216
Meningitis .....	5	2	.....	.....	1	6	34
<i>Diseases of the Nerves.</i>							
Neuralgia, facial.....	.....	1	.....	1	.....	.....	1
Neuralgia, of feet.....	.....	1	1	.....	.....	.....	7
Neuralgia, intercostal.....	7	.....	5	2	.....	.....	30
Neuralgia, ovarian.....	.....	1	1	.....	.....	.....	4
Neuralgia, sciatic.....	7	2	4	5	.....	.....	420
Neuritis, alcoholic .....	1	.....	.....	.....	1	.....	2
Neuritis, peripheral .....	2	3	.....	2	3	.....	157

Congestion of the spine .....	2	.....	1	.....	1	.....	19
Locomotor ataxia.....	1	1	.....	2	.....	.....	2
Paraplegia .....	.....	1	.....	1	.....	.....	1

Functional Diseases.

Aphasia .....	1	.....	.....	.....	1	.....	11
"Caisson" disease .....	1	.....	.....	1	.....	.....	32
Cephalalgia .....	1	4	2	3	.....	.....	118
Chorea.....	2	1	2	.....	1	.....	94
Dementia. ....	4	3	.....	5	2	.....	26
Dementia, paralytic.....	1	.....	.....	.....	1	.....	23
Dementia, paretic.....	1	.....	.....	.....	1	.....	42
Epilepsy.....	27	1	.....	28	.....	.....	41
Epilepsy, convulsions of .....	1	1	2	.....	.....	.....	3
Hysteria .....	9	13	2	19	1	.....	75
Insanity .....	2	1	.....	3	.....	.....	10
Mania .....	.....	1	.....	1	.....	.....	1
Neurasthenia.....	9	6	1	11	3	.....	155
Neurasthenia, spinal.....	1	.....	.....	1	.....	.....	29
Neuroses of menopause.....	.....	1	.....	1	.....	.....	14
Paranoia .....	1	.....	.....	1	.....	.....	2

DISEASES OF THE RESPIRATORY SYSTEM.

Diseases of the Nose.

Epistaxis .....	4	.....	.....	4	.....	.....	4
Rhinitis, acute.....	1	.....	1	.....	.....	.....	4

Diseases of the Larynx.

Laryngitis, acute .....	2	5	5	2	.....	.....	93
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IN-PATIENTS — MEDICAL — (Continued).

DIAGNOSIS.	Males.	Females.	Cured.	Improved.	Unimproved.	Died.	Number of days in hospital.
<i>Diseases of the Bronchi.</i>							
Asthma .....	12	5	5	11	1	.....	288
Bronchitis.....	8	8	11	5	.....	.....	263
Bronchitis, acute.....	19	12	29	2	.....	.....	416
Bronchitis, chronic.....	5	3	.....	8	.....	.....	162
Bronchitis, general.....	.....	1	.....	.....	.....	1	5
Bronchitis, subacute ...	5	2	5	2	.....	.....	164
<i>Diseases of the Lungs.</i>							
Congestion of the lungs .....	1	.....	.....	.....	.....	1	1
Emphysema.....	1	1	.....	2	.....	.....	29
Gangrene of the lungs.....	1	.....	.....	.....	.....	1	2
Hemorrhage from the lungs .....	8	3	9	2	.....	.....	149
Pneumonia, broncho .....	2	3	3	.....	.....	36	103
Pneumonia, lobar.....	86	18	65	3	.....	36	1,972
<i>Diseases of the Pleura.</i>							
Empyema.....	2	.....	.....	.....	.....	2	18
Hydro-pneumo —thorax.....	2	.....	.....	1	.....	1	113
Pleurisy, acute .....	3	1	1	3	.....	.....	40
Pleurisy, dry.....	5	1	4	2	.....	.....	33
Pleurisy, with effusion .....	18	7	21	3	.....	1	707
Pleurisy, fibrous .....	7	.....	2	4	1	.....	231

DISEASES OF THE URINARY SYSTEM.  
Diseases of the Bladder.

No. 24.]

Cystitis, acute	.....	1	1	.....	.....	.....	7
<i>Diseases of the Kidney.</i>							
Nephritis	.....	1	.....	.....	.....	1	2
Nephritis, acute	1	3	.....	1	.....	1	86
Nephritis, chronic	4	2	.....	4	.....	1	88
Nephritis, chronic diffuse	43	17	.....	43	.....	25	1,392
Nephritis, chronic diffuse exacerbation of	2	.....	2	2	.....	.....	67
Uremia	.....	2	.....	.....	.....	2	9

INFECTIOUS DISEASES.

Cerebro-spinal meningitis	13	5	7	.....	1	10	429
Diphtheria	1	4	.....	1	4	.....	6
Dysentery, acute	1	1	1	.....	.....	.....	15
Dysentery, amœbic	1	.....	1	.....	.....	.....	33
Ephemeral fever	10	4	14	.....	.....	.....	189
Erysipelas	6	1	1	.....	3	.....	12
Gonorrhœa	1	.....	1	.....	.....	.....	11
Influenza	13	8	19	.....	2	.....	198

*Malarial Fever.*

Intermittent fever	10	9	17	.....	2	.....	225
Intermittent fever, irregular	2	.....	2	.....	.....	.....	24
Intermittent fever, pernicious	1	.....	.....	.....	.....	1	5
Intermittent fever, quotidian	.....	1	1	.....	.....	.....	10
Intermittent fever, tertian	12	2	14	.....	.....	.....	115
Malaria cacheia	1	.....	.....	.....	1	.....	30
Measles	.....	2	.....	.....	1	.....	3
Scarlet fever	2	1	.....	.....	1	.....	5

IN-PATIENTS — MEDICAL — (Continued).

DIAGNOSIS.	Males.	Females.	Cured.	Improved.	Unimproved.	Died.	Number of days in hospital.
<i>Malarial fever — (Continued).</i>							
Septicæmia, puerperal . . . . .	3	2	2	1	1	1	59
Smallpox (variola) . . . . .	3	2	2	2	2	2	5
Smallpox (vaccination) . . . . .	2	2	2	2	2	2	4
<i>Syphilis.</i>							
Chancre of lip . . . . .	1	1	1	1	1	1	30
Syphilis . . . . .	1	1	1	1	1	1	2
Syphilis, hereditary . . . . .	1	1	1	1	1	1	24
Syphilis, secondary . . . . .	4	4	4	4	4	4	27
Syphilis, tertiary . . . . .	1	1	1	1	1	1	2
Syphilis, visceral (brain) . . . . .	4	4	4	4	4	4	84
Syphilitic arthritis . . . . .	1	1	1	1	1	1	17
Syphilitic cephalalgia . . . . .	2	2	2	2	2	2	83
Syphilitic endarteritis . . . . .	1	1	1	1	1	1	40
Syphilitic periostitis . . . . .	1	1	1	1	1	1	31
Syphilitic periostitis, multiple . . . . .	1	1	1	1	1	1	20
<i>Tuberculosis.</i>							
Tuberculosis, general . . . . .	4	4	4	4	4	4	256
Tuberculosis of hip . . . . .	1	1	1	1	1	1	89
Tuberculosis, pulmonary . . . . .	39	16	39	39	39	39	913
Tubercular meningitis . . . . .	1	2	1	1	1	1	43
Tubercular peritonitis . . . . .	1	1	1	1	1	1	16
Tubercular pleurisy . . . . .	1	1	1	1	1	1	25
Tubercular pleurisy with effusion . . . . .	1	1	1	1	1	1	48

Tubercular ulcer of intestines.....	1	.....	.....	.....	81
Typhoid fever.....	23	74	.....	.....	3,166
Typhus fever.....	1	.....	.....	7	23
Varicella.....	1	1	.....	.....	16
Whooping cough.....	1	1	.....	.....	19
MISCELLANEOUS DISEASES.					
Arthritis of knee, suppurating.....	.....	.....	.....	.....	1
Asphyxia.....	.....	.....	.....	.....	1
Coma.....	1	.....	.....	2	4
Debility.....	1	1	.....	.....	15
Destitution.....	8	.....	.....	.....	25
Exhaustion.....	.....	.....	.....	.....	1
Inanition.....	.....	1	.....	.....	13
Insolation.....	.....	.....	.....	.....	1
Intermittent fever, quotidian (non-malaria).....	.....	.....	.....	.....	39
Immersion.....	.....	.....	.....	.....	3
Malingering.....	2	.....	.....	.....	41
Œdema lower extremities.....	1	3	.....	.....	55
Prostration from coal gas.....	.....	.....	.....	.....	1
Prostration from heat.....	2	2	.....	.....	10
Prostration from smoke.....	.....	1	.....	.....	1
Senility.....	1	.....	.....	.....	2
Singultus persistans.....	.....	1	.....	.....	19
Suffocation by smoke.....	.....	1	.....	.....	1
Synovitis of knee.....	.....	1	.....	.....	42
Wound of lip.....	.....	.....	.....	.....	3
PARASITES.					
Tænia solium.....	.....	1	.....	.....	6
Scabies.....	.....	.....	.....	.....	1

IN-PATIENTS -- MEDICAL -- ( *Concluded* ).

DIAGNOSIS.	Males.	Females.	Cured.	Improved.	Unimproved.	Died.	Number of days in hospital.
POISONS.							
Alcoholism.....	44	18	8	50	3	1	102
Arsenic.....	.....	1	.....	1	.....	.....	1
Belladonna.....	.....	1	1	.....	.....	.....	6
Chloral.....	1	1	2	.....	.....	.....	10
Coal gas.....	1	2	3	.....	.....	.....	24
Hyoseyamine.....	1	.....	1	.....	.....	.....	3
Morphine.....	4	2	4	1	.....	1	21
Narcotic.....	.....	1	1	.....	.....	.....	3
Opium habit.....	1	.....	1	.....	.....	.....	26
Paris green.....	3	.....	.....	2	.....	1	3
"Rough on Rats".....	1	.....	1	.....	.....	.....	2
Unknown.....	1	1	1	1	.....	.....	4
Total.....	939	543	647	581	62	192	25,147

DIAGNOSIS.	Males.	Females.	Cured.	Improved.	Unimproved.	Died.	Number of days in hospital.
GENERAL INJURIES.							
Burns and scalds .....	38	10	6	39	.....	3	639
Contusions, general .....	14	8	1	21	.....	.....	229
Frost-bite .....	1	.....	.....	1	.....	.....	1
Fractures, multiple .....	22	7	3	22	.....	4	984
Fractures, multiple compound .....	3	1	2	1	.....	1	276
Shock .....	1	3	.....	1	.....	3	23
Wound (bullet) of trachea and abdomen .....	1	.....	.....	.....	.....	1	2
LOCAL INJURIES.							
<i>Injuries of the Head, Face and Neck.</i>							
Contusions, sprains and wounds .....	512	58	3	563	.....	4	738
Concussion .....	1	1	.....	2	.....	.....	15
Dislocation of inferior maxilla .....	4	.....	.....	4	.....	.....	4
Foreign body in ear .....	1	.....	.....	1	.....	.....	1
Foreign body in eye .....	6	4	.....	10	.....	.....	10
Foreign body in nose .....	.....	2	.....	2	.....	.....	2
Foreign body in throat .....	1	1	.....	2	.....	.....	2
Fracture frontal bone, compound .....	2	.....	.....	2	.....	.....	2
Fracture nasal bones .....	7	.....	.....	7	.....	.....	58
Fracture nasal bones, compound .....	7	.....	.....	7	.....	.....	13
Fracture inferior maxilla .....	8	1	.....	9	.....	.....	78
Fracture inferior maxilla, compound .....	2	.....	.....	2	.....	.....	24
Fracture skull (base) .....	7	2	.....	7	.....	.....	51
Fracture skull (vault) .....	9	4	1	5	.....	7	96

# IN-PATIENTS — SURGICAL — (Continued).

DIAGNOSIS.	Males.	Females.	Cured.	Improved.	Unimproved.	Died.	Number of days in hospital.
<i>Injuries of the Head, Face and Neck — (Cont'd).</i>							
Fracture skull, compound.....	7	.....	2	5	.....	.....	78
Fracture skull, compound and depressed.....	2	.....	1	.....	1	.....	49
Fracture skull, depressed (simple).....	1	.....	.....	1	.....	.....	1
Fracture superior maxilla (simple).....	1	.....	.....	1	.....	.....	9
Fracture superior maxilla (compound).....	1	.....	.....	1	.....	.....	1
Rupture of the cornea.....	1	.....	.....	1	.....	.....	8
<i>Injuries of the Upper Extremity.</i>							
Contusions, sprains and wounds.....	490	46	1	534	1	.....	866
Dislocation of clavicle.....	2	.....	.....	2	.....	.....	6
Dislocation of humerus.....	16	8	.....	24	.....	.....	95
Dislocation of metacarpals.....	3	.....	.....	3	.....	.....	4
Dislocation of phalanges.....	1	1	.....	2	.....	.....	2
Dislocation of phalanges (compound).....	1	.....	.....	1	.....	.....	1
Dislocation of radius.....	3	.....	.....	3	.....	.....	19
Dislocation of radius and ulna.....	6	1	1	6	.....	.....	85
Dislocation of radius and ulna (compound).....	1	.....	.....	1	.....	.....	15
Division of median nerve.....	1	.....	.....	1	.....	.....	28
Division of tendons of forearm.....	1	.....	.....	1	.....	.....	1
Foreign body in arm.....	1	.....	.....	1	.....	.....	1
Foreign body in finger.....	14	5	.....	19	.....	.....	19
Foreign body in forearm.....	1	.....	.....	1	.....	.....	1
Foreign body in hand.....	4	1	.....	5	.....	.....	5



IN-PATIENTS — SURGICAL — (Continued).

DIAGNOSIS.	Males.	Females.	Cured.	Improved.	Unimproved.	Died.	Number of days in hospital.
<i>Injuries of the Lower Extremity.</i>							
Contusions, sprains and wounds.....	140	32	9	163	.....	.....	981
Diastasis of fibula .....	2	1	.....	3	.....	.....	25
Dislocation of femur.....	1	.....	.....	.....	1	.....	10
Dislocation of phalanges .....	1	.....	.....	1	.....	.....	1
Dislocation of subastragaloid .....	1	.....	.....	1	.....	.....	25
Foreign body in foot.....	2	1	.....	3	.....	.....	3
Foreign body in knee .....	1	1	1	.....	1	.....	39
Fracture of femur.....	16	1	9	7	.....	1	784
Fracture of femur (compound) .....	4	.....	.....	2	.....	2	154
Fracture of femur (neck).....	5	8	2	9	1	1	532
Fracture of femur (neck), ununited.....	.....	1	.....	.....	1	.....	218
Fracture of fibula .....	16	5	.....	21	.....	.....	178
Fracture of fibula (compound) .....	1	.....	.....	1	.....	.....	82
Fracture of fibula (Potts) .....	20	6	2	23	1	.....	357
Fracture of metatarsals .....	2	.....	.....	2	.....	.....	11
Fracture of metatarsals (compound) .....	3	.....	.....	3	.....	.....	68
Fracture of os calcis .....	2	.....	.....	2	.....	.....	37
Fracture of os magnum .....	1	.....	.....	1	.....	.....	1
Fracture of patella .....	10	.....	2	7	1	.....	555
Fracture of petella (refracture) .....	2	.....	1	1	.....	.....	113
Fracture of phalanges (compound).....	4	.....	.....	4	.....	.....	14
Fracture of tibia .....	13	1	.....	14	.....	.....	92
Fracture of tibia (internal malleolus) .....	1	.....	.....	1	.....	.....	8
Fracture of tibia and fibula .....	22	1	1	22	.....	.....	256

Fracture of tibia and fibula (compound) .....	10	.....	.....	9	.....	1	667
Fracture of tibia and fibula (comp. and comminuted)	1	.....	.....	1	.....	.....	81
Fracture of tibia and fibula (deformed) .....	1	.....	1	.....	.....	.....	59
Fracture of tibia and fibula (ununited) .....	4	.....	1	3	.....	.....	284
Rupture of internal lateral ligament of knee .....	1	1	.....	2	.....	.....	64
Rupture of ligamentum patellæ .....	1	.....	.....	2	.....	.....	54
Separation of epiphysis of femur .....	.....	1	1	.....	.....	.....	34

*Injuries of the Abdomen and Pelvis.*

Contusions, sprains and wounds .....	9	1	1	8	1	.....	65
Contusion of kidney .....	1	.....	.....	1	.....	.....	8
Contusion of vulva .....	.....	1	.....	1	.....	.....	4
Fracture of coccyx .....	1	.....	.....	1	.....	.....	32
Fracture of pelvis .....	3	.....	1	1	1	.....	94
Laceration of cervix uteri .....	.....	2	.....	2	.....	.....	54
Laceration of cervix uteri and perineum .....	.....	4	2	2	.....	.....	191
Laceration of perineum .....	.....	7	2	3	2	.....	127
Rupture of bladder .....	1	.....	.....	.....	.....	1	1
Rupture of intestines .....	1	.....	.....	1	.....	.....	3
Rupture of kidney .....	1	.....	.....	.....	.....	1	4
Wound of vagina .....	.....	1	1	.....	.....	.....	21

*Injuries of Chest, Back and Side.*

Contusions, sprains and wounds .....	36	3	4	34	.....	1	288
Dislocation of gladiolus .....	1	.....	.....	1	.....	.....	9
Foreign body in side .....	.....	1	.....	1	.....	.....	4
Fracture of ribs .....	28	1	.....	26	.....	3	204
Fracture of spine .....	1	.....	.....	1	.....	.....	208
Pleurisy (traumatic) .....	1	.....	.....	1	.....	.....	1
Subluxation, costo-chondral .....	2	.....	.....	2	.....	.....	2

## IN-PATIENTS — SURGICAL — (Continued).

DIAGNOSIS.	Males.	Females.	Cured.	Improved.	Unimproved.	Died.	Number of days in hospital.
SURGICAL DISEASES.							
Abortion .....	.....	2	1	1	.....	.....	22
Abscess, abdominal wall .....	.....	2	1	1	.....	.....	19
Abscess, alveolar .....	8	2	.....	10	.....	.....	81
Abscess, arm .....	.....	1	1	.....	.....	.....	54
Abscess, axillary .....	3	1	1	3	.....	.....	46
Abscess, back, cold .....	.....	2	1	1	.....	.....	78
Abscess, breast .....	.....	1	1	.....	.....	.....	16
Abscess, cerebellum .....	1	.....	.....	.....	.....	1	6
Abscess, elbow .....	1	.....	.....	1	.....	.....	4
Abscess, face .....	3	1	.....	4	.....	.....	52
Abscess, finger .....	3	1	.....	4	.....	.....	29
Abscess, forearm .....	1	.....	.....	1	.....	.....	1
Abscess, groin .....	1	.....	.....	.....	1	.....	18
Abscess, intracranial .....	.....	1	.....	.....	.....	.....	32
Abscess, ischio-rectal .....	17	5	1	21	.....	.....	338
Abscess, jaw .....	1	.....	.....	1	.....	.....	1
Abscess, leg .....	1	1	.....	2	.....	.....	14
Abscess, liver .....	2	.....	1	1	.....	.....	99
Abscess, multiple .....	.....	1	.....	1	.....	.....	43
Abscess, neck .....	11	.....	3	7	1	.....	175
Abscess, os calcis .....	1	.....	.....	1	.....	.....	40
Abscess, pelvic .....	.....	2	.....	.....	.....	2	33
Abscess, perineal .....	2	.....	.....	2	.....	.....	78
Abscess, perinephritic .....	.....	1	.....	1	.....	.....	79

Abscess, peritonsillar . . . . .	1	.....	1	.....	.....	4
Abscess, periurethral . . . . .	2	.....	.....	.....	.....	42
Abscess, psoas . . . . .	5	.....	2	.....	1	426
Abscess, retropharyngeal . . . . .	1	.....	.....	.....	.....	56
Abscess, scalp . . . . .	.....	1	1	.....	.....	17
Abscess, submammary . . . . .	.....	1	.....	.....	.....	8
Abscess, submaxillary . . . . .	1	1	.....	2	.....	24
Abscess, thigh . . . . .	2	.....	.....	2	.....	42
Abscess, vulvar . . . . .	.....	1	1	.....	.....	13
Abscess, vulvo-vaginal . . . . .	.....	3	1	2	.....	82
Abscess and fistula, ischo-rectal . . . . .	.....	1	.....	1	.....	22
Adenitis, axillary . . . . .	3	.....	1	2	.....	36
Adenitis, cervical . . . . .	2	2	.....	3	1	70
Adenitis, cervical (malignant) . . . . .	1	.....	1	.....	.....	13
Adenitis, cervical (tubercular) . . . . .	12	4	6	9	1	271
Adenitis, cervical and axillary (tubercular) . . . . .	1	1	1	.....	1	54
Adenitis, femoral . . . . .	2	.....	.....	2	.....	28
Adenitis, inguinal . . . . .	21	4	5	20	.....	834
Adenitis, inguinal (syphilitic) . . . . .	1	.....	.....	1	.....	30
Adenitis, inguinal (tubercular) . . . . .	1	.....	.....	1	.....	31
Adeno fibroma of breast . . . . .	.....	2	2	.....	.....	26
Adenoma of breast . . . . .	.....	2	1	1	.....	35
Adenoma of prostate . . . . .	1	.....	.....	.....	1	15
Adenoma of thyroid . . . . .	1	.....	.....	1	.....	34
Anæmia after pelvic abscess . . . . .	.....	1	.....	1	.....	21
Ankylosis of knee . . . . .	1	.....	.....	.....	1	2
Ankylosis of shoulder . . . . .	.....	1	.....	1	.....	9
Ankylosis of wrist (fibrous) . . . . .	.....	1	.....	1	.....	15
Alcoholism . . . . .	3	.....	.....	3	.....	4
Appendicitis . . . . .	30	7	24	8	1	1,187
Arthritis of ankle . . . . .	1	.....	.....	1	.....	11

IN-PATIENTS — SURGICAL — (Continued).

DIAGNOSIS.	Males.	Females.	Cured.	Improved.	Unimproved.	Died.	Number of days in hospital.
SURGICAL DISEASES — (Continued).							
Arthritis of ankle (bony) . . . . .	1	.....	1	.....	.....	.....	51
Arthritis of ankle (tubercular) . . . . .	2	.....	2	.....	.....	.....	182
Arthritis of elbow . . . . .	1	1	.....	2	.....	.....	76
Arthritis of elbow (tubercular) . . . . .	1	.....	.....	1	.....	.....	32
Arthritis of finger . . . . .	1	.....	.....	1	.....	.....	59
Arthritis of hands (gonorrhœal) . . . . .	1	.....	.....	1	.....	.....	58
Arthritis of hip . . . . .	1	.....	.....	1	.....	.....	29
Arthritis of hip (tubercular) . . . . .	.....	2	.....	1	1	.....	91
Arthritis of knee . . . . .	2	.....	.....	2	.....	.....	91
Arthritis of knee (chronic) . . . . .	.....	1	.....	1	.....	.....	2
Arthritis of knee (rheumatic) . . . . .	.....	1	.....	1	.....	.....	87
Arthritis of knee (subacute) . . . . .	1	.....	1	.....	.....	.....	4
Arthritis of knee (suppurating) . . . . .	1	.....	1	.....	.....	.....	140
Arthritis of knee (syphilitic) . . . . .	.....	1	.....	1	.....	.....	51
Arthritis of knee (tubercular) . . . . .	1	1	1	1	.....	.....	212
Arthritis of wrist (tubercular) . . . . .	.....	1	.....	1	.....	.....	79
Ascariis lumbricoides . . . . .	.....	1	.....	1	.....	.....	12
Atresia vaginæ . . . . .	.....	1	.....	.....	1	.....	7
Atrophy of muscles . . . . .	1	.....	.....	.....	1	.....	9
Bowlegs . . . . .	2	1	.....	2	1	.....	63
Bursitis elbow (suppurating) . . . . .	1	.....	.....	1	.....	.....	6
Bursitis olecranon . . . . .	1	.....	.....	1	.....	.....	1
Bursitis popliteal . . . . .	1	.....	.....	1	.....	.....	25

Burtitis prepatella	1	2	2	1	1	33
Cancer of breast	.....	16	7	.....	1	266
Cancer of breast and spine	.....	1	.....	.....	.....	8
Cancer of cæcum	1	.....	.....	.....	1	12
Cancer of cervical glands	1	.....	1	.....	.....	12
Cancer of face	.....	1	.....	.....	1	145
Cancer, general	1	.....	.....	.....	1	5
Cancer of intestines	2	.....	.....	.....	1	70
Cancer of neck	1	.....	1	.....	.....	15
Cancer of œsophagus	1	.....	.....	.....	1	3
Cancer of œsophagus and liver	1	.....	.....	.....	1	43
Cancer of peritoneum	.....	1	.....	.....	.....	1
Cancer of prostate	2	.....	.....	.....	1	4
Cancer of rectum	1	.....	.....	.....	.....	4
Cancer of stomach	1	.....	.....	.....	.....	75
Cancer of stomach (pylorus)	.....	1	.....	.....	.....	41
Cancer of stomach and liver	2	.....	.....	.....	2	25
Cancer of submaxillary	1	.....	.....	.....	.....	7
Cancer of uterus	.....	2	.....	.....	1	13
Calculus, biliary	1	.....	.....	.....	1	4
Calculus, biliary (impacted)	.....	2	1	.....	1	39
Calculus, renal	3	2	2	.....	.....	174
Calculus, salivary	1	.....	1	.....	.....	7
Calculus, urethral	1	.....	1	.....	.....	31
Calculus, vesical	4	.....	4	.....	.....	127
Callus, painful	1	1	.....	.....	.....	55
Carbuncle of neck	3	.....	.....	.....	.....	82
Caries of femur (tubercular)	.....	1	.....	.....	.....	37
Caries of rib	1	.....	.....	.....	.....	14
Caries of shoulder (sicca)	1	.....	.....	.....	.....	1
Caries of spine	.....	1	.....	.....	1	4

## IN-PATIENTS -- SURGICAL -- (Continued).

DIAGNOSIS.	Males.	Females.	Cured.	Improved.	Unimproved.	Died.	Number of days in hospital.
SURGICAL DISEASES -- (Continued).							
Caries of tibia.....	1	.....	.....	1	.....	.....	50
Cellulitis .....	34	6	5	35	.....	.....	501
Cephalalgia.....	1	.....	1	.....	.....	.....	4
Chancre of tonsil .....	1	.....	.....	1	.....	.....	27
Chancroids .....	2	1	.....	3	.....	.....	14
Chonlangitis (suppurative).....	1	.....	.....	1	.....	.....	21
Cicatrix of chin .....	.....	2	.....	2	.....	.....	67
Cicatrix, painful .....	1	.....	1	.....	.....	.....	20
Cleft palate .....	.....	2	1	1	.....	.....	49
Club foot .....	.....	2	.....	2	.....	.....	135
Coccygodynia.....	.....	2	1	1	.....	.....	50
Colitis, ulcerative.....	1	.....	.....	.....	.....	1	79
Condyloma of anus .....	1	.....	.....	1	.....	.....	3
Condyloma of vulva.....	.....	1	1	.....	.....	.....	23
Contracture of abdomen, cicatricial .....	.....	1	.....	1	.....	.....	40
Contracture of fingers.....	.....	2	.....	2	.....	.....	112
Cyst of breast, papillomatous.....	.....	1	1	.....	.....	.....	15
Cyst of coccyx, dermoid.....	1	.....	.....	1	.....	.....	16
Cyst of eyelid .....	.....	1	.....	1	.....	.....	29
Cyst of eyelid (suppurating) .....	.....	1	.....	1	.....	.....	6
Cyst of epididymis .....	1	.....	.....	1	.....	.....	1
Cyst of face, sebaceous .....	1	.....	.....	1	.....	.....	2
Cyst of neck, brachiogenetic .....	1	.....	1	.....	.....	.....	9

Cyst of neck, congenital.....	.....	1	.....	1	.....	.....	10
Cyst of ovary.....	.....	7	.....	4	.....	.....	353
Cyst of ovary, dermoid.....	.....	1	.....	1	.....	.....	57
Cyst of parovarian.....	.....	1	.....	.....	.....	.....	92
Cyst of sacro-coccygeal.....	2	.....	.....	1	.....	.....	40
Cyst, spermatic.....	1	.....	.....	1	.....	.....	9
Cyst of thigh, sebaceous.....	1	.....	.....	1	.....	.....	10
Cystic accessory thyroid gland.....	.....	1	.....	1	.....	.....	33
Cystic tumor of neck.....	1	.....	.....	1	.....	.....	13
Cystitis, acute.....	7	.....	.....	.....	.....	1	172
Cystitis, chronic.....	1	.....	.....	.....	.....	1	47
Cystitis, hæmorrhagic.....	1	.....	.....	.....	.....	.....	16
Cystitis, tubercular.....	1	.....	.....	.....	.....	1	11
Cystitis, tubercular-spermato.....	1	.....	.....	.....	.....	.....	8
Cystitis, suppurative and pyelitis.....	1	.....	.....	.....	.....	1	3
Cystocele.....	.....	2	.....	2	.....	.....	153
Deformity of arm.....	.....	1	.....	.....	.....	.....	1
Deformity of finger.....	.....	.....	.....	.....	.....	.....	15
Deformity of foot.....	1	.....	.....	.....	.....	.....	97
Deformity of forearm.....	.....	1	.....	1	.....	.....	73
Deformity of hand.....	.....	2	.....	.....	.....	.....	42
Deformity of knee.....	.....	3	.....	.....	.....	1	36
Deformity of leg.....	.....	1	.....	.....	.....	.....	43
Deformity of nose.....	3	.....	.....	.....	.....	.....	180
Deformity of thigh.....	.....	2	.....	2	.....	.....	51
Destitution.....	.....	1	.....	.....	.....	.....	2
Dysmenorrhœa.....	.....	1	.....	.....	.....	.....	108
Dyspepsia, intestinal.....	.....	2	.....	1	.....	.....	1
Eczema, leg.....	1	.....	.....	.....	.....	1	33
Eczema, nipple.....	.....	1	.....	.....	.....	.....	16
Empyema.....	9	.....	.....	.....	.....	.....	551
		1	.....	3	.....	2	

# IN-PATIENTS — SURGICAL — (Continued).

DIAGNOSIS.	Males.	Females.	Cured.	Improved.	Unimproved.	Died.	Number of days in hospital.
SURGICAL DISEASES — (Continued).							
Enchondroma of parotid .....	.....	1	1	.....	.....	.....	10
Endocarditis, ulcerative .....	.....	1	.....	.....	.....	1	7
Endometritis .....	.....	26	4	21	1	.....	511
Enteroptosis .....	.....	1	1	.....	.....	.....	93
Epidydimitis .....	16	.....	2	14	.....	.....	173
Epilepsy, traumatic .....	1	1	.....	2	.....	.....	65
Epistaxis .....	2	.....	1	1	.....	.....	7
Epithelioma of cheek .....	1	1	1	1	.....	.....	36
Epithelioma of cheek and lips .....	1	.....	.....	.....	1	.....	4
Epithelioma of face .....	1	.....	1	.....	.....	.....	4
Epithelioma of hand .....	1	.....	1	.....	.....	.....	22
Epithelioma of jaw and mouth .....	1	.....	.....	.....	.....	1	27
Epithelioma of leg .....	1	.....	1	.....	.....	.....	80
Epithelioma of lip .....	2	.....	.....	1	1	.....	6
Epithelioma of mouth .....	2	.....	1	.....	1	.....	39
Epithelioma of neck and mouth .....	1	.....	.....	.....	.....	1	60
Epithelioma of neck and tonsil .....	1	.....	.....	.....	1	.....	1
Epithelioma of nose .....	1	.....	1	.....	.....	.....	14
Epithelioma of palate .....	2	.....	.....	1	1	.....	14
Epithelioma of parotid .....	1	.....	1	.....	.....	.....	7
Epithelioma of thigh .....	.....	1	.....	.....	.....	1	23
Epithelioma of tongue .....	1	1	1	1	.....	.....	27
Epithelioma of tongue and pharynx .....	1	.....	.....	.....	.....	1	137
Epulis .....	.....	1	.....	1	.....	.....	6

Erysipelas .....	3	1	.....	4	.....	.....	4
Etherization .....	1	.....	.....	1	.....	.....	2
Extravasation of urine .....	1	.....	.....	1	.....	.....	29
Fæcal impaction. ....	1	.....	.....	1	.....	.....	6
Fatty heart .....	1	.....	.....	.....	.....	1	13
Fibroma of breast .....	1	.....	.....	1	.....	.....	6
Fibroma of ear .....	1	.....	1	.....	.....	.....	8
Fibroma of ear, recurrent .....	1	.....	.....	.....	.....	.....	6
Fibroma of uterus .....	.....	10	.....	.....	.....	.....	342
Fibro-myxoma of knee .....	1	.....	.....	1	.....	.....	48
Fibro-sarcoma of parotid .....	1	.....	.....	.....	.....	.....	16
Fissure ani .....	4	1	.....	.....	.....	.....	35
Fistula in ano .....	21	4	2	23	.....	1	322
Fistula, fæcal .....	.....	3	.....	3	.....	.....	190
Fistula, perineal .....	3	.....	1	2	.....	.....	161
Floating cartilage in knee .....	2	.....	2	.....	.....	.....	39
Floating kidney .....	.....	1	.....	.....	.....	.....	160
Furuuncle of thigh .....	1	.....	.....	1	.....	.....	1
Furunculosis .....	1	.....	.....	1	.....	.....	1
Ganglion of hand .....	.....	1	.....	.....	.....	.....	23
Gangrene of foot .....	3	.....	2	.....	.....	.....	355
Gangrene of foot (senile) .....	1	.....	.....	.....	.....	1	7
Gangrene of mouth and face .....	.....	1	.....	.....	.....	1	14
Gangrene of scrotum .....	1	.....	1	.....	.....	.....	35
Gangrene of toes .....	1	1	1	1	.....	.....	69
Gastralgia .....	1	.....	.....	.....	.....	.....	20
Gastritis .....	1	1	.....	.....	.....	.....	6
Genu valgum .....	3	2	.....	2	.....	.....	205
Goitre .....	1	.....	1	1	.....	.....	21
Gumma of face and finger .....	1	.....	.....	.....	.....	.....	57
Gumma of foot (tubercular) .....	1	.....	.....	.....	.....	.....	13

## IN-PATIENTS — SURGICAL — (Continued).

DIAGNOSIS.	Males.	Females.	Cured.	Improved.	Unimproved.	Died.	Number of days in hospital.
SURGICAL DISEASES — (Continued).							
Hæmatoma of back.....	1	.....	1	.....	.....	.....	45
Hæmatoma of eyelid.....	1	.....	.....	1	.....	.....	1
Hæmatoma of face.....	2	.....	.....	2	.....	.....	2
Hæmatoma of hand.....	1	.....	.....	1	.....	.....	1
Hæmatoma of leg.....	1	1	1	1	.....	.....	37
Hæmatoma of scalp.....	2	.....	.....	2	.....	.....	2
Hæmatoma of thigh.....	1	.....	.....	1	.....	.....	13
Hæmaturia.....	2	.....	.....	2	.....	.....	19
Hæmo-pneumo-thorax.....	1	.....	.....	1	.....	.....	143
Hæmorrhage from abscess of chest.....	1	.....	.....	1	.....	.....	8
Hæmorrhage from gums.....	1	.....	.....	1	.....	.....	1
Hæmorrhage, meningeal.....	1	.....	.....	.....	.....	1	2
Hæmorrhage, post-partum.....	.....	1	1	.....	.....	.....	25
Hæmorrhage, urethral.....	2	.....	1	1	.....	.....	7
Hæmorrhage, uterine.....	.....	1	.....	1	.....	.....	72
Hæmorrhage, varicose veins.....	.....	1	.....	1	.....	.....	6
Hæmorrhoids.....	.....	.....	.....	.....	.....	.....	.....
Hæmorrhoids, inflamed.....	2	2	1	3	.....	.....	42
Hæmorrhoids, internal.....	11	.....	9	2	.....	.....	134
Hæmorrhoids, internal and external.....	1	.....	.....	.....	1	.....	1
Hæmorrhoids, external.....	1	1	.....	1	1	.....	12
Hallux valgus.....	2	.....	1	1	.....	.....	23
Hare-lip.....	3	1	2	2	.....	.....	65
Hernia inguinal.....	30	4	28	5	.....	1	1,205

Hernia inguinal, congenital	1	1	1	1	1	1	19
Hernia inguinal, incarcerated	6	2	5	3	1	1	151
Hernia inguinal, irreducible	6	1	5	1	1	1	242
Hernia inguinal, strangulated	2	1	3	1	1	1	60
Hernia femoral	1	5	4	1	1	1	137
Hernia umbilical	1	1	2	1	1	1	91
Hernia ventral	1	1	1	1	1	1	4
Hodgkin's disease	1	1	1	1	1	1	120
Hydrocele of tunica vaginalis	7	1	4	2	1	1	99
Hydrocele of spermatic cord	1	1	1	1	1	1	18
Hydrocele of spermatic cord (encysted)	1	1	1	1	1	1	17
Hydronephrosis	2	2	1	3	1	1	81
Hypospadias	2	1	1	1	1	1	26
Hysteria	1	3	1	4	1	1	53
Hystero-epilepsy	1	1	1	1	1	1	3
Ingrowing nail	1	1	1	1	1	1	20
Intestinal obstruction	2	1	1	1	1	1	23
Lipoma thigh	2	1	2	1	1	1	22
Locomotor ataxia	2	1	1	1	1	1	12
Lymphadenitis axillary	1	1	1	1	1	1	1
Lymphangitis	1	1	1	1	1	1	2
Lympho sarcoma of neck	1	1	1	1	1	1	4
Malingering	1	1	1	1	1	1	7
Mastitis, acute	1	1	1	1	1	1	10
Metrorrhagia	1	2	1	1	1	1	8
Myositis of back	1	1	1	1	1	1	6
Myxoma of breast	1	1	1	1	1	1	54
Myxo-sarcoma of thigh	1	1	1	1	1	1	17
Nævus of back and arm	1	1	1	1	1	1	21
Nævus of face	1	4	1	3	1	1	18
Nævus of hand	1	1	1	1	1	1	74

IN-PATIENTS — SURGICAL — (Continued).

DIAGNOSIS.	Males.	Females.	Cured.	Improved.	Unimproved.	Died.	Number of days in hospital.
SURGICAL DISEASES — (Continued).							
Nævus of nose	.....	1	.....	1	.....	.....	34
Necrosis of femur	5	1	.....	5	1	.....	217
Necrosis of hand	1	.....	.....	1	..	.....	13
Necrosis of inferior maxilla	4	1	.....	5	.....	.....	62
Necrosis of metacarpals	.....	1	1	.....	.....	.....	31
Necrosis of os calcis	2	.....	.....	2	.....	.....	152
Necrosis of phalanges	2	.....	.....	2	.....	.....	61
Necrosis of pubes, tubercular	.....	1	.....	1	.....	.....	22
Necrosis of ribs	1	.....	.....	1	.....	.....	15
Necrosis of scalp	.....	1	.....	.....	.....	I	4
Necrosis of scapula	.....	1	.....	1	.....	.....	30
Necrosis of scapula, syphilitic	.....	1	.....	1	.....	.....	18
Necrosis of tibia	1	2	.....	3	.....	.....	216
Necrosis of ulna	1	.....	.....	1	.....	.....	12
Nephralgia	1	.....	1	.....	.....	.....	17
Nephritis	1	.....	.....	.....	.....	I	7
Neuralgia ovarian	.....	1	.....	I	.....	.....	4
Neuralgia uterine	.....	1	.....	1	.....	.....	10
Neurasthenia	1	3	.....	4	.....	.....	46
Oedema of lungs	.....	1	.....	.....	.....	I	43
Orchitis	1	.....	1	.....	.....	.....	12
Orchitis suppurative	1	.....	.....	1	.....	.....	20
Osteitis of elbow	.....	1	.....	1	.....	.....	8
Osteitis of femur	.....	1	.....	1	.....	.....	46

Osteitis of sternum.....	1	.....	.....	.....	1	.....
Osteitis of ulna.....	1	.....	.....	.....	1	.....
Osteo-chondroma of femur.....	.....	1	.....	1	.....	.....
Osteo-chondroma of fibula.....	1	.....	.....	1	.....	.....
Osteoma of humerus.....	1	.....	.....	1	.....	.....
Osteoma of inferior maxilla.....	.....	1	.....	.....	1	.....
Osteo-myelitis of clavicle.....	.....	1	.....	.....	1	.....
Osteo-myelitis of femur.....	6	.....	.....	1	5	.....
Osteo-myelitis of femur tubercular.....	.....	1	.....	.....	1	.....
Osteo-myelitis of inferior maxilla.....	.....	1	.....	.....	1	.....
Osteo-myelitis of metatarsus.....	1	.....	.....	1	.....	.....
Osteo-myelitis of phalanges.....	1	2	.....	.....	3	.....
Osteo-myelitis of tibia.....	1	1	.....	1	1	.....
Otitis.....	1	.....	.....	.....	1	.....
Otitis media, suppurative.....	.....	1	.....	.....	.....	1
Paralysis, infantile.....	1	.....	.....	.....	1	.....
Paraplegia.....	1	.....	.....	.....	.....	1
Pelvic inflammation.....	.....	1	.....	.....	1	.....
Pericarditis.....	1	.....	.....	.....	.....	1
Periostitis, alveolar.....	.....	1	.....	.....	1	.....
Periostitis of tibia.....	2	.....	.....	1	1	.....
Periphlebitis.....	1	.....	.....	.....	1	.....
Peritonitis.....	1	3	.....	.....	.....	4
Peritonitis, pelvic.....	.....	5	.....	1	4	.....
Peritonitis, septic.....	.....	1	.....	.....	.....	1
Peritonitis, tubercular.....	.....	2	.....	.....	2	.....
Pes equinus.....	1	.....	.....	.....	1	.....
Pes planus.....	1	.....	.....	1	.....	.....
Pes varus.....	.....	1	.....	1	.....	.....
Pharyngitis.....	1	.....	.....	.....	1	.....
Phimosis.....	12	.....	.....	6	6	.....

IN-PATIENTS — SURGICAL — (Continued).

DIAGNOSIS.	Males.	Females.	Cured.	Improved.	Unimproved.	Died.	Number of days in hospital.
SURGICAL DISEASES — (Continued).							
Phlebarterectasia of mons veneris.....	.....	1	.....	1	.....	.....	25
Pneumonia .....	1	.....	.....	.....	.....	1	12
Polypus, nasal.....	.....	1	1	.....	.....	.....	16
Polypus, uterine .....	.....	2	2	.....	.....	.....	42
Pregnancy, extra-uterine .....	.....	1	.....	.....	.....	1	18
Pregnancy and post-partum condition .....	.....	1	1	.....	.....	.....	16
Pressure on brachial plexus .....	1	.....	.....	.....	1	.....	16
Proctalgia .....	.....	1	.....	1	.....	.....	8
Proctitis.....	.....	1	.....	1	.....	.....	3
Prolapse of uterus .....	.....	3	.....	3	.....	.....	114
Prostatitis, tubercular.....	1	.....	.....	1	.....	.....	12
Pyæmia .....	1	.....	.....	.....	.....	1	43
Pyelitis .....	4	2	1	5	.....	.....	256
Pyelo-nephritis ....	1	.....	.....	1	.....	.....	43
Pyonephrosis .....	1	1	.....	2	.....	.....	84
Retention of urine .....	22	.....	2	20	.....	.....	23
Retroflexion of uterus. ....	.....	1	1	.....	.....	.....	26
Rheumatism, acute .....	1	1	.....	2	.....	.....	15
Rheumatism, gonorrhœal .....	1	.....	.....	1	.....	.....	8
Rupture of muscle.....	1	.....	.....	1	.....	.....	1
Rupture of varicose vein .....	4	.....	.....	4	.....	.....	11
Salpingitis .....	.....	58	14	37	5	2	1,599
Salpingo-oophoritis .....	.....	.2	1	1	.....	.....	93
Sarcoma of bladder .....	1	.....	.....	1	.....	.....	81

Sarcoma of breast.....	.....	2	2	.....	.....	55
Sarcoma of face .....	1	.....	1	.....	.....	32
Sarcoma of glands, femoral .....	1	.....	.....	1	.....	45
Sarcoma of groin .....	1	.....	1	.....	.....	17
Sarcoma of inferior maxilla .....	.....	2	1	1	.....	15
Sarcoma of kidney.....	1	1	.....	1	1	91
Sarcoma of neck.....	1	.....	1	.....	.....	14
Sarcoma of testicle and spermatic cord .....	1	.....	.....	1	.....	123
Sarcoma of thigh .....	2	2	2	2	.....	91
Septicæmia .....	2	1	.....	.....	3	39
Septicæmia, chronic.....	1	.....	.....	1	.....	19
Sinus of ankle.....	2	.....	.....	2	.....	43
Sinus of chin.....	1	.....	.....	1	.....	8
Sinus of elbow .....	.....	1	.....	1	.....	1
Sinus of groin.....	.....	1	.....	1	.....	43
Sinus of heel.....	1	.....	1	.....	.....	13
Sinus of ischio-rectal .....	1	.....	.....	1	.....	1
Sinus of knee .....	1	.....	.....	1	.....	27
Sinus of side .....	1	.....	.....	1	.....	30
Sinus of superior maxilla.....	1	.....	.....	.....	1	1
Stricture of œsophagus .....	3	.....	1	.....	2	174
Stricture of rectum .....	2	2	1	3	.....	477
Stricture of rectum, tubercular .....	.....	1	.....	1	.....	260
Stricture of rectum and urethra.....	1	.....	1	.....	.....	77
Stricture of urethra .....	38	.....	16	21	1	902
Stump, conical .....	1	.....	.....	1	.....	25
Stump, faulty .....	1	1	2	.....	.....	95
Synovitis of knee .....	2	3	2	2	1	76
Synovitis of knee, chronic .....	3	1	1	3	.....	116
Synovitis of knee and ankle.....	1	.....	.....	1	.....	24
Synovitis of wrist.....	.....	1	.....	1	.....	1

DIAGNOSIS.	Males.	Females.	Cured.	Improved.	Unimproved.	Died.	Number of days in hospital.
SURGICAL DISEASES — (Continued).							
Synovitis of chronic serous.....	1	2	2	1	..	...	70
Syphilis .....	..	1	...	...	1	...	5
Talipes-equino-varus .....	1	1	...	1	1	...	32
Tarsalgia .....	1	..	...	1	..	...	6
Teno-synovitis .....	2	..	...	2	..	...	5
Tetanus .....	1	..	1	...	..	...	44
Tuberculosis, general.....	1	..	...	1	..	...	16
Tuberculosis of forearm .....	..	2	...	2	..	...	34
Tuberculosis of hip .....	..	1	...	1	..	...	81
Tuberculosis of ilium.....	1	..	...	1	..	...	43
Tuberculosis of intestines .....	..	1	...	...	1	...	8
Tuberculosis of kidney and bladder .....	1	..	...	1	..	...	10
Tuberculosis of kidney and ureters .....	..	1	...	1	..	...	110
Tuberculosis of knee .....	2	..	1	1	..	...	125
Tuberculosis of pelvis .....	1	..	...	...	1	...	15
Tuberculosis of pulmonary.....	1	..	...	...	..	1	15
Tuberculosis of testis .....	1	..	...	1	..	...	24
Tumor of abdomen .....	5	2	...	3	4	...	231
Tumor of arm.....	1	..	...	...	1	...	2
Tumor of back .....	..	1	...	...	1	...	1
Tumor of breast (fibro-cystic) .....	..	1	1	...	..	...	13
Tumor of forehead.....	1	..	...	1	..	...	3
Tumor of neck .....	2	..	1	...	1	...	20
Tumor of omental hernia (malignant) .....	1	..	...	...	1	...	40

Tumor of pelvis	.....	4	.....	2	.....	36
Tumor of right iliac fossa	.....	1	.....	.....	.....	5
Tumor of thyroid	.....	.....	2	.....	.....	31
Ulcer of bladder	.....	1	.....	.....	1	24
Ulcer of buttocks and thigh	.....	1	.....	.....	.....	5
Ulcer of chest	.....	.....	1	.....	.....	63
Ulcer of colon	.....	1	.....	1	.....	36
Ulcer of colon, tubercular	.....	1	.....	1	.....	48
Ulcer of elbow	.....	1	.....	.....	.....	19
Ulcer of face, rodent	.....	1	.....	.....	.....	14
Ulcer of finger	.....	.....	.....	.....	.....	1
Ulcer of foot	.....	1	.....	1	.....	14
Ulcer of knee	.....	1	.....	1	.....	1
Ulcer of knee, syphilitic	.....	1	.....	1	.....	1
Ulcer of leg	.....	4	.....	8	.....	182
Ulcer of leg and foot	.....	.....	.....	1	.....	1
Ulcer of penis	.....	.....	.....	1	.....	1
Ulcer of penis, chancreoidal	.....	.....	.....	2	.....	3
Ulcer, varicose	.....	4	.....	1	.....	168
Ulcer of wrist	.....	.....	.....	1	.....	1
Urethral caruncles	.....	1	.....	1	.....	18
Urethral fever	.....	.....	.....	.....	1	9
Urethritis	.....	.....	.....	1	.....	2
Urethritis, chronic	.....	1	.....	5	.....	186
Uvula, elongated	.....	.....	.....	1	.....	1
Vaccination	.....	.....	.....	1	.....	1
Vaginitis	.....	3	.....	3	.....	56
Vaginitis, acute	.....	1	.....	1	.....	3
Varicocele	.....	.....	9	3	.....	207
Varicose veins	.....	3	2	2	.....	78
Varicose veins and ulcer	.....	2	1	1	.....	96
Warts on prepuce, gonorrhœal	.....	.....	.....	1	.....	1
Webbed fingers	.....	1	.....	.....	.....	28
Totals	.....	714	401	2,519	93	99
	.....					41,123

## IN-PATIENTS — SURGICAL — (Continued).

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[SENATE,

OPERATIONS.	Males.	Females.	RESULT.			
			Cured.	Improved.	Unimproved.	Died.
<i>Amputations of</i>						
Arm, for compound fracture of humerus and forearm.....	1	.....	1	....	.....	.....
Foot (tarso-metatarsal joint), for arthritis .....	1	.....	.....	1	.....	.....
Foot (Syme's), for necrosis of tarsus.....	1	.....	1	....	.....	.....
Leg, for crushed foot and ankle.....	.....	1	.....	1	.....	.....
Leg (Gritti-Stokes), for epithelioma .....	1	.....	.....	1	.....	.....
Leg, for tuberculous of ankle....	2	.....	2	.....	.....	.....
Leg (re-amputation), for conical stump.....	.....	1	1	.....	.....	.....
Leg (re-amputation), for faulty stump .....	1	.....	1	.....	.....	.....
Phalanges, for necrosis.....	1	.....	.....	1	.....	.....
Phalanges and metacarpals (2d and 3d), for epithelioma.....	1	.....	1	.....	.....	.....
Thigh, for compound and comminuted fracture of leg.....	1	.....	.....	.....	.....	1
<i>Incisions.</i>						
Abdominal, for abscess of liver .....	3	.....	1	1	.....	1
Abdominal, for abscess of pelvis.....	.....	3	.....	2	.....	1 <sup>7</sup>
Abdominal, for appendicitis .....	19	3	18	3	.....	1
Abdominal, for appendicitis (carcinoma) .....	1	.....	1	.....	.....	.....
Abdominal, for cyst of ovary.....	.....	4	3	1	.....	.....
Abdominal, for cyst of ovary (dermoid).....	.....	1	1	.....	.....	.....
Abdominal, for cyst parovarian .....	.....	1	1	.....	.....	.....
Abdominal, for ectopic gestation.....	.....	1	.....	.....	.....	1
Abdominal, for enteroptosis .....	.....	1	1	.....	.....	.....
Abdominal, for faecal fistula .....	1	2	2	.....	.....	1 <sup>4</sup>

Abdominal, for peritonitis .....	.....	1	.....	.....	1 <sup>1</sup>
Abdominal, for peritonitis tubercular .....	.....	1	.....	.....	.....
Abdominal, for pyosalpingitis .....	.....	8	.....	.....	.....
Abdominal, for rupture of bladder intraperitoneal .....	1	.....	.....	.....	1 <sup>4</sup>
Abdominal, for salpingitis .....	.....	1	.....	.....	.....
Abdominal, for salpingo-oophoritis .....	.....	2	.....	.....	.....
Abdominal, for tumor of pelvis (inflammatory) .....	.....	1	.....	.....	.....
Abdominal, for tumor of pelvis (sarcoma) .....	.....	1	.....	.....	1 <sup>4</sup>
Abdominal, exploratory, for calculus renal .....	1	.....	.....	.....	.....
Abdominal, exploratory, for cancer of caecum .....	1	.....	.....	.....	1 <sup>4</sup>
Abdominal, exploratory, for cancer of colon .....	1	.....	.....	.....	.....
Abdominal, exploratory, for cancer of stomach .....	2	.....	.....	.....	1 <sup>4</sup> 1 <sup>10</sup>
Abdominal, exploratory, for cholithaemia .....	1	.....	.....	.....	.....
Abdominal, exploratory, for cyst of ovary .....	.....	1	.....	.....	.....
Abdominal, exploratory, for fibroids of uterus .....	.....	1	.....	.....	.....
Abdominal, exploratory, for peritonitis .....	.....	3	.....	.....	.....
Abdominal, exploratory, for salpingo-oophoritis .....	.....	1	.....	.....	11 <sup>4</sup>
Abdominal, exploratory, for sarcoma of kidney .....	.....	1	.....	.....	.....
Abdominal, exploratory, for tuberculosis of kidney .....	.....	1	.....	.....	.....
Abdominal, exploratory, for tumor, abdominal .....	4	2	.....	.....	.....
Lumbar, for abscess perinephritic .....	.....	1	.....	.....	11 <sup>2</sup>
<i>Incision for</i>					
Abscess, alveolar .....	3	2	.....	.....	.....
Abscess, axillary .....	1	.....	.....	.....	.....
Abscess, hip .....	1	.....	.....	.....	.....
Abscess, hip (periarticular) .....	1	.....	.....	.....	.....
Abscess, intracranial .....	.....	1	.....	.....	.....
Abscess, ischio-rectal .....	3	2	.....	.....	.....
Abscess, ischio-rectal with division of sphincter .....	1	.....	.....	.....	.....
Abscess, neck .....	2	.....	.....	.....	.....

IN-PATIENTS — SURGICAL — (Continued).

OPERATIONS.	les. Ma	Females.	RESULT.			
			Cured.	Improved.	Unim- proved.	Died.
<i>Incision for -- (Continued).</i>						
Abscess, neck and chest . . . . .	1	.....	.....	1	.....	.....
Abscess, perineal . . . . .	1	.....	.....	1	.....	.....
Abscess, periurethral . . . . .	1	.....	.....	1	.....	.....
Abscess, psoas . . . . .	3	.....	1	2	.....	.....
Abscess, thigh . . . . .	1	.....	.....	1	.....	.....
Bursitis over olecranon . . . . .	1	.....	.....	1	.....	.....
Calculus salivary . . . . .	1	.....	1	.....	.....	.....
Carbuncle . . . . .	1	.....	.....	1	.....	.....
Cellulitis of hand . . . . .	2	.....	.....	2	.....	.....
Cellulitis of neck . . . . .	1	.....	.....	1	.....	.....
Cellulitis of scalp (phlegmonous) . . . . .	1	.....	.....	.....	.....	1
Empyema . . . . .	1	.....	.....	.....	.....	1
Gangrene of scrotum . . . . .	1	.....	1	.....	.....	.....
Hydrocele . . . . .	1	.....	1	.....	.....	.....
Sarcoma of thigh (exploratory) . . . . .	1	.....	.....	1	.....	.....
Wound of scalp (exploratory) . . . . .	.....	1	.....	1	.....	.....
<i>Incision and Excision of</i>						
Sac, for abscess of neck . . . . .	1	.....	1	.....	.....	.....
Sac, for abscess periurethral . . . . .	1	.....	.....	1	.....	.....
Sinus, for fistula in ano . . . . .	2	1	1	2	.....	.....



# IN-PATIENTS -- SURGICAL -- (Continued).

OPERATIONS.	Males.	Females.	RESULT.			
			Cured.	Improved.	Unimproved.	Died.
<i>Incisions for -- (Continued).</i>						
Herniotomy, for inguinal hernia, irreducible (Bassini) .....	3	.....	3	.....	.....	.....
Herniotomy, for inguinal hernia, reducible (Bassini) .....	26	3	28	1	.....	.....
Herniotomy, for inguinal hernia, strangulated (Bassini) .....	1	.....	1	.....	.....	.....
Herniotomy, for inguinal hernia, (Bassini-Halstead) .....	1	.....	1	.....	.....	.....
Herniotomy, for inguinal hernia, (Halstead) .....	1	.....	1	.....	.....	.....
Herniotomy, for inguinal hernia, exploratory ....	1	.....	.....	.....	.....	1 <sup>4</sup>
Herniotomy, for inguinal hernia, (Bassini) and intestinal suture	1	.....	1	.....	.....	.....
Herniotomy, for umbilical hernia (excision of sac) .....	1	.....	1	.....	.....	.....
Hysterectomy (abdominal), for obstructive Dysmenorrhœa...	.....	1	1	.....	.....	.....
Hysterectomy (abdominal), for uterine fibroids .....	.....	3	2	.....	.....	1 <sup>9</sup>
Hysterorraphy, for retroflexion of uterus .....	.....	1	1	.....	.....	.....
Hysterorraphy, for retroversion of uterus .....	.....	1	1	.....	.....	.....
Lithotomy suprapubic, for vesical calculus .....	1	.....	1	.....	.....	.....
Meatotomy, for stricture of urethra .....	1	.....	1	.....	.....	.....
Nephrolithotomy, for renal calculus .....	2	1	2	1	.....	.....
Nephrorraphy (Kœnig's) for displaced kidney .....	.....	1	.....	1	.....	.....
Nephrorraphy (Kœnig's) for moveable kidney .....	.....	1*	1	.....	.....	.....
Nephrotomy, for calculus renal ....	1	.....	1	.....	.....	.....
Nephrotomy (Kœnig's), for hydronephrosis .....	1	.....	.....	1	.....	.....
Nephrotomy (Kœnig's), for pyonephrosis .....	1	.....	.....	1	.....	.....
Nephrotomy (Kœnig's), for pyonephrosis tubercular .....	.....	1	.....	1	.....	.....
Oesophagotomy, external, for stricture .....	1	.....	1	.....	.....	.....
Oophorectomy, for cyst of ovary .....	.....	1	1	.....	.....	.....



OPERATIONS.	Males.	Females.	RESULT.			
			Cured.	Improved.	Unimproved.	Died.
<i>Operations on Blood Vessels — (Continued).</i>						
Resection of veins, for varicocele.....	1	.....	1	.....	.....	.....
Ligation and division, for varicose veins of leg . . . . .	2	.....	1	1	.....	.....
Ligation and skin graft, for varicose veins and ulcer.....	.....	1	1	.....	.....	.....
Resection of veins and skin graft, for varicose veins and ulcer,.....	.....	1	1	.....	.....	.....
<i>Operations on Bones and Joints.</i>						
Arthrectomy, for tarsalgia.....	1	.....	1	.....	.....	.....
Arthrectomy, for tubercular medio-tarsal joint.....	1	.....	1	.....	.....	.....
Arthrotomy, for floating cartilage in knee-joint.....	2	.....	2	.....	.....	.....
Arthrotomy, for movable body in knee-joint.....	.....	1	1	.....	.....	.....
Arthrotomy, for osteomyelitis and arthritis of ankle . . . . .	1	.....	1	.....	.....	.....
Arthrotomy, for suppurating ankle-joint.....	1	.....	.....	1	.....	.....
Arthrotomy, for tuberculosis of hip.....	.....	1	.....	1	.....	.....
Arthrotomy (exploratory), for limited motion at elbow . . . . .	1	.....	.....	.....	1	.....
Aspiration and injection of knee-joint, for synovitis.....	1	.....	.....	1	.....	.....
Bone scraping, for caries of rib.....	1	.....	.....	1	.....	.....
Bone scraping, for necrosis of femur . . . . .	1	.....	.....	1	.....	.....
Bone scraping, for necrosis of femur tubercular . . . . .	1	.....	.....	1	.....	.....
Bone scraping, for necrosis of jaw.....	1	1	.....	2	.....	.....
Bone scraping, for necrosis of scapula. . . . .	.....	1	.....	1	.....	.....
Bone scraping, for necrosis of tibia.....	.....	1	.....	1	.....	.....
Bone scraping, for osteomyelitis of femur.....	1	.....	1	.....	.....	.....
Bone scraping, for osteomyelitis of ilium . . . . .	1	.....	.....	1	.....	.....
Bone scraping, and extraction of teeth (cyst dentigerous).....	... ..	1	.....	1	.....	.....



OPERATIONS.	Males.	Females.	RESULT.			
			Cured.	Improved.	Unimproved.	Died.
<i>Operations on Bones and Joints — (Continued).</i>						
Osteotomy, for union.....	.....	1	.....	1	.....	.....
Osteotomy, for caries of tibia .....	.....	1	1	.....	.....	.....
Osteotomy, for curvature (anterior) of tibia and fibula .....	.....	1	1	.....	.....	.....
Osteotomy, for deformed fracture of leg .....	1	1	1	1	.....	.....
Osteotomy, for deformed fracture of radius .....	1	.....	.....	1	.....	.....
Osteotomy, for deformity of foot.....	.....	1	1	.....	.....	.....
Osteotomy, for deformity of forearm .....	.....	1	.....	1	.....	.....
Osteotomy, for deformity of nose (open method) .....	1	.....	.....	1	.....	.....
Osteotomy, for genu valgum .....	2	2	1	3	.....	.....
Osteotomy, for hallux valgus.....	2	.....	.....	2	.....	.....
Osteotomy, for necrosis of tibia .....	2	.....	.....	2	.....	.....
Osteotomy, for necrosis of ulna .....	1	.....	.....	1	.....	.....
Osteotomy, for non-union of forearm .....	1	.....	.....	1	.....	.....
Osteotomy, for non-union of humerus.....	1	.....	1	.....	.....	.....
Osteotomy, for non-union of tibia .....	1	.....	1	.....	.....	.....
Osteotomy, for non-union of tibia and fibula.....	1	.....	.....	1	.....	.....
Osteotomy, for old comp. fracture (Potts) .....	.....	1	.....	1	.....	.....
Osteotomy, for osteomyelitis of femur .....	3	.....	.....	3	.....	.....
Osteotomy, for osteomyelitis of femur tubercular .....	1	.....	.....	1	.....	.....
Osteotomy, for osteomyelitis of inferior maxilla .....	.....	1	.....	1	.....	.....
Osteotomy, for talipes varus.....	.....	1	1	.....	.....	.....
Osteotomy, for ununited fracture of femur .....	.....	1	1	.....	.....	.....
Osteotomy (multiple), for genu valgum .....	1	.....	.....	1	.....	.....

Osteotomy and bone scraping, for arthritis (gonorrheal of hand) .....	1	.....	.....	.....	1	.....	.....	.....	.....
Osteotomy and erosion, for tuberculosis of hip .....	1	.....	.....	.....	1	.....	.....	.....	.....
Osteotomy and suturing, for ununited fracture of tibia and fibula .....	1	.....	.....	.....	1	.....	.....	.....	.....
Osteotomy and tenotomy, for club foot .....	.....	1	.....	.....	.....	.....	.....	.....	.....
Reduction of dislocation of humerus .....	18	8	.....	.....	26	.....	.....	.....	.....
Reduction of dislocation of inferior maxilla .....	4	.....	.....	.....	4	.....	.....	.....	.....
Reduction of dislocation of hip .....	1	.....	.....	.....	.....	1	.....	.....	.....
Reduction of dislocation of gladiolus .....	1	.....	.....	.....	1	.....	.....	.....	.....
Reduction of dislocation of metacarpals .....	3	.....	.....	.....	3	.....	.....	.....	.....
Reduction of dislocation of phalanges .....	3	1	.....	.....	4	.....	.....	.....	.....
Reduction of dislocation of radius .....	3	.....	.....	.....	3	.....	.....	.....	.....
Reduction of dislocation of radius and ulna .....	7	1	.....	.....	7	.....	.....	.....	.....
Removal of bone, for fracture (comp.) of femur .....	2	.....	.....	.....	.....	.....	.....	.....	1 <sup>7</sup>
Removal of bone, for fracture (comp. and depressed) of skull .....	1	.....	.....	.....	.....	.....	.....	.....	.....
Removal of bone, for wound of skull .....	1	.....	.....	.....	.....	.....	.....	.....	1 <sup>7</sup>
Removal of jaw, for epithelioma .....	1	.....	.....	.....	.....	.....	.....	.....	1 <sup>7</sup>
Removal of sequestrum, for necrosis of phalanx .....	1	.....	.....	.....	.....	.....	.....	.....	.....
Resection of elbow, for tuberculosis .....	1	.....	.....	.....	1	.....	.....	.....	.....
Resection of knee, for arthritis deformans .....	1	.....	.....	.....	.....	.....	.....	.....	.....
Resection of knee, for deformity .....	.....	1	.....	.....	.....	.....	.....	.....	.....
Resection of knee, for injury, old .....	1	.....	.....	.....	.....	.....	.....	.....	.....
Resection of rib, for empyema .....	2	1	.....	.....	2	.....	.....	.....	1 <sup>6</sup>
Resection of rib, for empyema tubercular .....	1	.....	.....	.....	1	.....	.....	.....	.....
Resection of elbow, for fracture of humerus (comp. and com.) .....	1	.....	.....	.....	1	.....	.....	.....	.....
Sequestrotomy, for necrosis of femur .....	1	.....	.....	.....	1	.....	.....	.....	.....
Sequestrotomy, for necrosis of os calcis .....	1	.....	.....	.....	1	.....	.....	.....	.....
Sequestrotomy and bone scraping, for necrosis of inf. maxilla .....	1	.....	.....	.....	1	.....	.....	.....	.....
Sequestrotomy and osteotomy, for necrosis of tibia .....	1	.....	.....	.....	1	.....	.....	.....	.....
Suturing of bones, for fracture of humerus (comp. and com.) .....	1	.....	.....	.....	1	.....	.....	.....	.....

IN-PATIENTS — SURGICAL — (Continued).

OPERATIONS.	Males.	Females.	RESULT.			
			Cured	Improved.	Unimproved.	Died.
<i>Operations on Bones and Joints — (Continued).</i>						
Suturing of bones, for fracture of tibia and fibula (comp. and com.)	1	.....	.....	1	.....	.....
Suturing of patella, for fracture	1	.....	.....	.....	1	.....
Suturing of patella, for fracture (open method)	1	.....	.....	1	.....	.....
Suturing of patella, for re-fracture	2	.....	1	1	.....	.....
Trephining, for fracture of skull (comp. and depressed)	1	.....	.....	1	.....	.....
Trephining and elevation fracture of skull (comp. and depressed)	1	.....	1	.....	.....	.....
Trephining (exploratory), for suppuration of middle ear	.....	1	.....	.....	.....	19
Wiring, for fracture (comp.) of tibia	1	.....	.....	1	.....	.....
Wiring, non-union of ulna after fracture	1	.....	.....	1	.....	.....
<i>Plastic Operations, for</i>						
Absence (pathological) of penile urethra	1	.....	.....	1	.....	.....
Burns (skin graft)	1	1	1	1	.....	.....
Cicatrix of chin	.....	1	.....	1	.....	.....
Cleft palate	.....	1	1	.....	.....	.....
Cleft palate (staphylorrhaphy uranoplasty)	.....	1	.....	1	.....	.....
Deformity of hand (skin graft)	.....	1	.....	1	.....	.....
Deformity of hand and fingers (skin graft)	.....	1	.....	1	.....	.....
Deformity of nose	3	2	.....	5	.....	.....
Deformity of nose (Roe's method)	1	.....	1	.....	.....	.....
Deformity of rectum after operation	1	.....	1	.....	.....	.....

Faeca fistula .....	1	.....	1	.....	.....	.....
Fistula after operation on rectum. ....	1	..... 2	1	.....	.....	.....
Hare-lip .....	3	..... 1	2	.....	.....	..... 1 <sup>6</sup>
Hare-lip (Hagedorn's method) .....	1	.....	.....	.....	.....	.....
Incontinence of faeces after operation on rectum.....	1	.....	.....	.....	.....	..... 1
Lacerated wound of leg.....	1	.....	1	.....	.....	.....
<i>Removal of Tumors.</i>						
Adeno-fibroma of breast .....	.....	.....	.....	.....	.....	.....
Callus of foot.....	.....	..... 1	.....	.....	.....	.....
Cancer of breast .....	.....	..... 1	.....	.....	.....	.....
Cancer of breast and axilla .....	.....	..... 10	5	.....	.....	..... 11 <sup>7</sup>
Cancer of neck .....	1	.....	1	.....	.....	.....
Cancer of neck secondary . . . . .	1	.....	1	.....	.....	.....
Cancer of submaxillary gland.....	1	.....	1	.....	.....	.....
Cancerous nodules in breast .....	.....	..... 3	2	.....	.....	.....
Caruncle, urethral .....	.....	..... 1	1	.....	.....	.....
Condylomata of vulva .....	.....	..... 1	1	.....	.....	.....
Cyst, coccygeal (dermoid).....	1	.....	.....	.....	.....	.....
Cyst, neck, congenital.....	1	..... 1	2	.....	.....	.....
Cyst, sacrococcygeal, suppurating . . . . .	1	.....	.....	.....	.....	.....
Cyst, sacrococcygeal, and sinuces.....	1	.....	.....	.....	.....	.....
Epithelioma of cheek.....	1	.....	.....	.....	.....	.....
Epithelioma of cheek and neck.....	1	.....	.....	.....	.....	..... 1
Epithelioma of face.....	1	..... 2	3	.....	.....	.....
Epithelioma of lip.....	1	.....	.....	.....	.....	.....
Epithelioma of neck .....	1	.....	1	.....	.....	.....
Epithelioma of nose .....	1	.....	1	.....	.....	.....
Epithelioma of palate (hard).....	1	.....	.....	.....	.....	.....
Epithelioma of parotid.....	1	.....	1	.....	.....	.....

## IN-PATIENTS — SURGICAL — (Continued).

OPERATIONS.	RESULT.					
	Males.	Females.	Cured.	Improved.	Unimproved.	Died.
<i>Removal of Tumors — (Continued).</i>						
Epithelioma of submaxillary gland.....	1	.....	.....	1	.....	.....
Epithelioma of superior maxilla (curetting).....	.....	1	.....	.....	.....	1 10
Epithelioma of tongue.....	1	1	.....	2	.....	.....
Fibroma of breast.....	1	1	2	.....	.....	.....
Fibroma of breast (amputation).....	.....	1	1	.....	.....	.....
Fibroma of ear.....	1	.....	1	.....	.....	.....
Fibro-adenoma of breast.....	.....	1	1	.....	.....	.....
Fibro-cystic tumor of breast.....	.....	1	1	.....	.....	.....
Fibro-myxoma of semi-lunar cartilage.....	1	.....	.....	1	.....	.....
Fibro-sarcoma of parotid.....	1	.....	1	.....	.....	.....
Ganglion of hand.....	.....	1	1	.....	.....	.....
Gland mammary, for eczema of nipple.....	.....	1	1	.....	.....	.....
Gland thyroid, supernumerary.....	.....	1	1	.....	.....	.....
Glands, cervical.....	2	.....	1	.....	.....	1
Glands, cervical, tubercular.....	5	1	5	1	.....	.....
Glands, femoral.....	1	.....	.....	1	.....	.....
Glands, inguinal.....	2	.....	1	1	.....	.....
Lipoma of thigh.....	2	.....	2	.....	.....	.....
Lymphadenoma of neck.....	1	.....	1	.....	.....	.....
Lympho-sarcoma of neck.....	.....	1	.....	.....	.....	1
Myxoma of breast.....	.....	1	1	.....	.....	.....
Nævus of back.....	1	.....	.....	1	.....	.....



# IN-PATIENTS — SURGICAL — (Continued).

80

[SENATE,

OPERATIONS.	Females.	Males.	RESULT.		
			Cured.	Improved.	Unimproved.
<i>Unclassified Operations — (Continued).</i>					
Curetting of uterus, for hæmorrhage after miscarriage . . . . .	.....	1	1	.....	.....
Curetting of uterus, for retained secundines . . . . .	.....	3	2	1	.....
Enucleation of eye . . . . .	1	.....	1	.....	.....
Evacuation and excision of sac, for spermatocele . . . . .	1	.....	1	.....	.....
Excision of cicatrix of chin . . . . .	.....	1	.....	1	.....
Excision of cicatrix of palm . . . . .	.....	1	.....	1	.....
Excision of nerve ends, for painful cicatrix . . . . .	1	.....	1	.....	.....
Excision of sac, for hydrocele . . . . .	3	.....	3	.....	.....
Excision of slough, for noma . . . . .	.....	1	.....	.....	.....
Excision of rectum (Kraske), for stricture . . . . .	1	.....	1	.....	.....
Litholapaxy, for vesical calculus . . . . .	1	.....	1	.....	.....
Perineorrhaphy, for laceration of perineum . . . . .	.....	4	2	2	.....
Perineorrhaphy (Hegar) and ant colporrhaphy for cystocele . . . . .	.....	1	.....	1	.....
Removal of sutures from sinus . . . . .	.....	1	.....	1	.....
Resection of colon, for prolapse after colostomy . . . . .	.....	1	.....	1	.....
Resection of rib and incision through diaphragm, for abscess of liver . . . . .	1	.....	.....	.....	.....
Shortening round ligaments for prolapse of uterus . . . . .	.....	1	.....	1	.....
Stretching of sphincter, for fissure ani . . . . .	.....	1	1	.....	.....
Suture of incised wounds . . . . .	2	.....	1	.....	.....
Suture of ligamentum patellæ, for rupture . . . . .	1	.....	1	.....	.....
Suture of sphincter ani, for division after excision of rectum . . . . .	1	.....	1	.....	.....

Tenorrhaphy and neurorrhaphy, for divided tendons and nerves	1	.....	.....	1	.....	.....
Trachelorrhaphy .....	...	3	.....	2	.....	.....
Trachelorrhaphy (Emmets) and perineorrhaphy (Hegar) .....	.....	1	.....	.....	.....	.....
Volkman's op, for hydrocele .....	1	.....	.....	.....	.....	.....
Totals .....	405	232	283	299	6	49

CAUSE OF DEATH — 1 Perforated ulcer of stomach. 2 Inanition. 3 Delerium tremens. 4 Peritonitis. 5 Pneumonia. 6 Pericarditis. 7 Shock. 8 Uræmia.  
9 Septicæmia. 10 Exhaustion.

## IN-PATIENTS -- NATIONALITY.

Africa .....	1
Armenia .....	1
Australia .....	4
Austria .....	29
Bavaria .....	1
Belgium .....	5
Bermuda .....	2
Bohemia .....	2
Canada .....	51
Chili .....	1
China .....	4
Cuba .....	3
Denmark .....	12
England .....	254
France .....	60
Germany .....	329
Greece .....	5
Hayti .....	1
Holland .....	3
Hungary .....	5
India .....	2
Ireland .....	1,076
Italy .....	89
Norway .....	18
Poland .....	3
Portugal .....	1
Roumania .....	4
Russia .....	44
Scotland .....	70
South America .....	2
Spain .....	13
Sweden .....	46
Switzerland .....	25
Syria .....	4
Turkey .....	6
United States .....	2,398
Unknown .....	6
Wales .....	2
West Indies .....	12
Total .....	<u>4,594</u>

OUT-PATIENTS.

Treated in class of surgery .....	3,649
Treated in class of general medicine .....	3,799
Treated in class of skin and venereal diseases' .....	1,083
Treated in class of diseases of women .....	587
Treated in class of orthopædic surgery .....	131
Total .....	<u>9,249</u>
Total number of visits of patients .....	<u>40,394</u>

RECORD BY MONTHS.

MONTHS.	MEDICAL.						
	Males.	Females.	Cured.	Improved.	Unimproved.	Died.	Number of days in hospital.
January.....	75	35	42	50	2	16	2,370
February.....	75	50	57	40	7	21	2,340
March.....	91	53	66	46	10	22	1,850
April.....	93	48	58	53	6	24	2,026
May.....	91	48	56	57	8	18	2,081
June.....	67	41	53	40	3	12	2,283
	492	275	332	286	36	113	12,950
July.....	88	45	60	53	6	14	2,288
August.....	74	42	51	48	9	8	2,044
September.....	71	45	61	42	2	11	1,986
October.....	75	52	57	49	5	16	2,455
November.....	65	40	44	47	2	12	1,664
December.....	74	44	42	56	2	18	1,760
	447	268	315	295	26	79	12,197
Totals.....	939	543	647	581	62	192	25,147

SURGICAL.

January.....	189	68	35	214	2	6	3,540
February.....	172	50	29	179	7	7	3,244
March.....	160	57	25	178	7	7	3,134
April.....	164	33	22	163	5	7	2,400
May.....	230	54	32	237	7	8	3,973
June... ..	205	72	33	223	11	10	4,264
	1,120	334	176	1,194	39	45	20,555
July.....	240	53	43	237	7	6	3,592
August.....	211	66	24	236	8	9	2,620
September.....	226	59	50	217	9	9	4,364
October.....	222	67	40	227	9	13	3,407
November.....	200	74	38	215	14	7	3,402
December.....	179	61	30	193	7	10	3,183
	1,278	380	225	1,325	54	54	20,568
Totals.....	2,398	714	401	2,519	93	99	41,123

GRAND TOTALS.

Males.....	3,337
Females.....	1,257
Cured.....	1,048
Improved.....	3,100
Unimproved.....	155
Died.....	291
Number of days in hospital.....	66,270

COMBINED SERVICES.

MONTHS.	Males.	Females.	Cured.	Improved.	Unim- improved.	Died.	Number of days in hospital.
January .....	264	103	77	264	4	22	5,910
February ...	247	100	86	219	14	28	5,584
March .....	251	110	91	224	17	29	4,984
April .....	257	81	80	216	11	31	4,426
May .....	321	102	88	294	15	26	6,054
June .....	272	113	86	263	14	22	6,547
	1,612	609	508	1,480	75	158	33,505
July .....	328	98	103	290	13	20	5,880
August .....	285	108	75	284	17	17	4,664
September .....	297	104	111	259	11	20	6,350
October .....	297	119	97	276	14	29	5,862
November .....	265	114	82	262	16	19	5,066
December .....	253	105	72	249	9	28	4,943
	1,725	648	540	1,620	80	133	32,763

## SUMMARY OF REPORT FOR 1893.

## Patients remaining in wards January 1, 1892:

	Males.	Females.	Total.
Medical .....	37	24	61
Surgical.....	63	35	98
	<hr/>	<hr/>	<hr/>
Total .....	100	59	159
	<hr/>	<hr/>	<hr/>

## Patients admitted to wards:

Medical .....	979	548	1,527
Surgical.....	2,381	697	3,078
	<hr/>	<hr/>	<hr/>
Total .....	3,360	1,245	4,605
	<hr/>	<hr/>	<hr/>

## Patients discharged from wards, cured:

Medical .....	647		
Surgical.....	401		
	<hr/>		
	.....	.....	1,048

Patients discharged from wards,  
improved:

Medical .....	581		
Surgical.....	2,519		
	<hr/>		
	.....	.....	3,100

Patients discharged from wards, unim-  
proved:

Medical .....	62		
Surgical .....	93		
	<hr/>		
	.....	.....	155

## Patients discharged from wards, died:

Medical .....	192		
Surgical.....	99		
	<hr/>		
	.....	.....	291

Total .....	.....	.....	4,594
	<hr/>	<hr/>	<hr/>

## Patients remaining in wards January 1, 1894:

Medical .....	38	30	68
Surgical.....	64	38	102
	<hr/>	<hr/>	<hr/>
Total .	102	68	170
	<hr/>	<hr/>	<hr/>

Operations performed .....	637
Out-patients treated during the year .....	9,249
Number of ambulance calls.....	1,433
	<hr/>



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ANNUAL REPORT  
OF THE  
COMMITTEE ON STATISTICS  
OF THE  
HOUSE OF RELIEF  
FOR THE  
YEAR ENDING DECEMBER 31, 1893.

IN-PATIENTS — MEDICAL.

DIAGNOSIS.	Males.	Females.	Cured.	Improved.	Unim- proved.	Died.
Alcoholism .....	7	.....	2	3	.....	2
Abortion .....	.....	1	.....	1	.....	.....
Asphyxia, gas .....	4	.....	3	.....	.....	1
Cerebral embolus and endocarditis .....	2	.....	.....	1	.....	1
Cerebral hæmorrhage .....	7	.....	.....	5	.....	2
Constipation .....	3	1	1	3	.....	.....
Colic, intestinal .....	2	.....	1	1	.....	.....
Colic, renal .....	2	.....	.....	2	.....	.....
Epilepsy .....	6	1	.....	7	.....	.....
Endocarditis .....	2	2	.....	3	.....	1
Enteritis .....	5	.....	1	4	.....	.....
Gastro enteritis .....	4	.....	.....	4	.....	.....
Gastritis .....	2	.....	.....	2	.....	.....
Heat prostration .....	3	.....	2	1	.....	.....
Insolation .....	1	.....	.....	1	.....	.....
Intermittent fever .....	3	4	.....	7	.....	.....
Meningitis .....	1	.....	.....	.....	.....	1
Nephritis, chronic .....	6	1	.....	6	.....	1
Phthisis, pulmonalis .....	4	.....	.....	3	.....	1
Pneumonia, acute lobar .....	21	1	3	11	1	7
Empyema .....	1	.....	.....	1	.....	.....
Rheumatism .....	1	.....	.....	1	.....	.....
Senility and debility .....	2	.....	.....	2	.....	.....
Submersion .....	3	.....	3	.....	.....	.....

Sciatica.....	1	.....	.....	.....	1	.....	.....	.....	.....
Typhoid fever.....	1	.....	.....	.....	1	.....	.....	.....	.....
Peritonitis .....	1	.....	.....	.....	.....	.....	.....	.....	1
Typhus fever.....	1	.....	.....	.....	.....	.....	.....	.....	.....
Syncope .....	2	.....	.....	.....	.....	.....	.....	.....	.....
Emphysema .....	.....	.....	.....	.....	1	.....	.....	.....	.....
Hysteria .....	.....	.....	.....	.....	1	.....	.....	.....	.....
Dysentery .....	1	.....	.....	.....	.....	.....	.....	.....	1
Jaundice, obstructive.....	.....	.....	.....	.....	1	.....	.....	.....	.....
Totals .....	99	14	16	77	1	19	.....	.....	.....

IN-PATIENTS — SURGICAL.

DIAGNOSIS OF INJURIES.	Males.	Females.	Cured.	Improved.	Unim- proved.	Died.
Multiple injuries of body, shock.....	6	.....	.....	6	.....	.....
Multiple injuries of fract. tibia, comp. hum.....	1	.....	.....	.....	.....	1
Multiple injuries, comp. rad. and ulna.....	1	.....	.....	1	.....	.....
<i>Head and Face.</i>						
Laceration wound of scalp.....	8	.....	.....	8	.....	.....
Penetrating wound of orbit.....	2	.....	.....	2	.....	.....
Contusion both eyes.....	1	.....	.....	1	.....	.....
Fracture of base of skull.....	5	.....	.....	5	.....	.....
Fracture of base of skull, with fract. vault.....	3	.....	.....	2	.....	1
Fracture of base of skull, with fract. sup. and inf. max.....	1	.....	.....	1	.....	.....
Fracture of vault, simple.....	2	2	1	2	.....	1
Fracture of vault, simple, depressed.....	1	.....	.....	.....	.....	1
Fracture of vault, compound, depressed.....	8	2	2	7	.....	1
Fracture of vault, compound, infected.....	1	.....	.....	1	.....	.....
Fracture of nasal bones.....	1	.....	.....	1	.....	.....
Pistol shot wound head, penetrating.....	2	.....	.....	.....	.....	2
Extensive lacerated wounds.....	2	.....	.....	2	.....	.....
<i>Thorax and Back.</i>						
Fracture of ribs, with internal injuries.....	5	.....	.....	4	.....	1
Stab wounds of thorax, penetrating.....	3	.....	2	1	.....	.....
Pistol shot wound of thorax.....	1	.....	.....	1	.....	.....
Sprain of back.....	1	.....	.....	1	.....	.....
Fracture of spine.....	1	.....	.....	1	.....	.....

Abdomen and Pelvis.

Contusions of abdomen .....	1	.....	.....	.....
Stab wounds of abdomen.....	.....	.....	.....	.....
Stab wounds of abdomen, penetrating ..	.....	1	.....	.....
Pistol shot wound, penetrating.....	.....	1	.....	.....
Pistol shot wound, penetrating, and arm and back.....	.....	.....	.....	1
Fracture of pelvis.....	1	.....	.....	.....

Upper Extremities.

Extensive lacerated wounds .....	4	.....	.....	.....
Extensive lacerated wounds, with rupture of mus. spiral nerve	1	.....	.....	.....
Sprain of wrist .....	1	.....	.....	.....
Dislocation of radius.....	1	.....	.....	.....
Fracture of humerus, simple.....	2	.....	.....	.....
Fracture of humerus, comp. comm.....	2	.....	.....	.....
Fracture of ulna, with extensive laceration .....	1	.....	.....	.....
Fracture of radius and ulna, with fract. humerus.....	1	.....	.....	.....
Fracture of metatarsals and phalanges .....	1	.....	.....	.....
Traumatic amputation of forearm .....	1	.....	.....	.....
Pistol shot wound, humerus . . .	2	.....	.....	.....

Lower Extremities.

Subastragaloid luxation, with fracture both malleoli .....	2	.....	.....	.....
Luxation of patella.....	2	.....	.....	.....
Luxation of femur (dorsal) .....	1	.....	.....	.....
Sprain of ankle .....	4	.....	.....	.....
Traumatic synovitis of knee.....	1	.....	.....	.....
Pott's fracture.....	2	.....	.....	.....
Fracture of femur.....	9	.....	.....	1
Fracture of patella .....	8	.....	.....	.....
Fracture of patella bilateral .....	1	.....	.....	.....

IN-PATIENTS — SURGICAL — (Continued).

DIAGNOSIS OF INJURIES.	Males.	Females.	Cured.	Improved.	Unim- proved.	Died.
<i>Lower Extremities — (Continued).</i>						
Fracture of tibia, comp . . . . .	1	. . . . .	. . . . .	1	. . . . .	. . . . .
Fracture of tibia, with ext. lac. both legs . . . . .	1	. . . . .	. . . . .	. . . . .	. . . . .	1
Fracture of tibia, and fibula, comp . . . . .	8	1	4	5	. . . . .	. . . . .
Fracture of fibula . . . . .	2	. . . . .	. . . . .	2	. . . . .	. . . . .
Fracture of tarsus . . . . .	3	. . . . .	1	2	. . . . .	. . . . .
Totals . . . . .	124	11	22	100	2	11

IN-PATIENTS — SURGICAL — (Continued).

DIAGNOSIS.	Males.	Females.	Cured.	Improved.	Unim- proved.	Died.
SURGICAL DISEASES.						
Abscess, alveolar.....	2	.....	1	1	.....	.....
Abscess, abdominal wall .....	1	.....	1	.....	.....	.....
Abscess, axillary.....	2	1	.....	3	.....	.....
Abscess, ischio-rectal .....	2	.....	.....	2	.....	.....
Abscess, mastoid .....	1	.....	.....	1	.....	.....
Abscess, perinethral.....	2	.....	.....	2	.....	.....
Adenitis, cervical .....	2	.....	.....	2	.....	.....
Adenitis, femoral .....	4	.....	3	1	.....	.....
Adenitis, inguinal.....	1	.....	1	.....	.....	.....
Angioma tongue .....	.....	1	1	.....	.....	.....
Appendicitis.....	3	.....	3	.....	.....	.....
Bursitis .....	.....	2	1	1	.....	.....
Burns, extensive .....	1	1	.....	2	.....	.....
Carcinoma, breast .....	.....	1	.....	.....	1	.....
Carcinoma, cervix uteri.....	.....	1	.....	1	.....	.....
Carcinoma, jaw .....	.....	1	.....	1	.....	.....
Cellulitis, hand and arm .....	1	1	1	1	.....	.....
Cicatricial contraction .....	.....	1	.....	1	.....	.....
Extravasation of urine and septicæmia.....	3	.....	.....	.....	.....	3
Epithelioma, face .....	1	.....	.....	1	.....	.....
Epithelioma, thigh .....	1	.....	.....	1	.....	.....
Floating cartilage, knee.....	1	.....	1	.....	.....	.....
Hemorrhoids .....	7	.....	5	2	.....	.....

IN-PATIENTS -- SURGICAL -- (Continued).

DIAGNOSIS.	Males.	Females.	Cured.	Improved.	Unimproved.	Died.
SURGICAL DISEASES -- (Continued).						
Hernia, ing. reduc.	2	.....	2	.....	.....	.....
Hernia, ing. reduc. strang.	6	.....	5	1	.....	.....
Hernia, femoral	1	.....	1	.....	.....	.....
Hernia, ventral	1	.....	.....	1	.....	.....
Frozen feet	3	.....	.....	3	.....	.....
Mastitis	1	.....	.....	1	.....	.....
Necrosis	1	.....	.....	1	.....	.....
Neuroma, thigh	1	.....	.....	1	.....	.....
Osteo myelitis	2	.....	.....	2	.....	.....
Periostitis	7	.....	.....	7	.....	.....
Pyonephrosis	1	.....	.....	1	.....	.....
Painful stump	2	.....	.....	1	1	.....
Prolapse of anus	3	.....	2	1	.....	.....
Papilloma, thigh	1	.....	1	.....	.....	.....
Stricture of urethra	13	.....	.....	.....	.....	.....
Salpingitis	.....	3	.....	13	.....	.....
Sarcoma, thigh	1	.....	.....	3	.....	.....
Sarcoma, testicles	1	.....	.....	1	.....	.....
Tubercular arthritis	3	.....	.....	1	.....	.....
Tubercular orchitis	4	.....	.....	3	.....	.....
Tubercular peritonitis	1	.....	.....	4	.....	.....
Tuberculosis of sternum, scapula and malar	.....	1	.....	1	.....	.....
Tumor of brain	1	.....	.....	1	.....	.....

Tumor of back .....	1	.....	.....	1	.....	.....
Ulcer.....	6	.....	.....	6	.....	.....
Varicocoele .....	1	.....	.....	1	.....	.....
Totals.....	99	14	29	79	2	3

IN-PATIENTS — SURGICAL — (Continued).

OPERATIONS.	Males.	Females.	Cured	Improved.	Unimproved.	Died.
<i>Amputations.</i>						
Arm.....	1	.....	.....	1	.....	.....
Forearm.....	2	.....	.....	2	.....	.....
Leg.....	1	.....	.....	1	.....	.....
Thigh.....	1	.....	.....	1	.....	.....
Foot (Symes, both).....	2	.....	.....	2	.....	.....
Hip.....	1	.....	.....	.....	.....	1
<i>Incisions.</i>						
For abcess leg.....	1	.....	.....	1	.....	.....
For abcess periurethral.....	1	.....	.....	1	.....	.....
For fistula in ano.....	2	.....	.....	2	.....	.....
For periproctitis.....	1	.....	.....	1	.....	.....
<i>Abdominal.</i>						
For appendicitis, suppurating.....	1	.....	.....	1	.....	.....
For appendicitis, intermediary.....	2	.....	2	.....	.....	.....
For tubercular peritonitis.....	1	.....	.....	1	.....	.....
For injuries, exploratory.....	6	.....	6	.....	.....	.....
For pistol shot wound, penetrating.....	2	.....	2	.....	.....	.....
For stab wound, penetrating.....	1	.....	1	.....	.....	.....
Adenitis.....	5	1	.....	6	.....	.....
<i>Herniotomy.</i>						
Ing. (irreduc.).....	1	.....	.....	1	.....	.....
Ing. (red.).....	2	.....	.....	2	.....	.....

Ing. (strang.) .....	2	.....	.....	.....	2	.....	.....
Fem. (strang) .....	1	.....	.....	.....	1	.....	.....
<i>Nephrotomy.</i>							
For pyonephrosis .....	1	.....	.....	.....	1	.....	.....
<i>Urethrotomy.</i>							
Ext and int.....	5	.....	.....	.....	5	.....	.....
Int .....	3	.....	.....	.....	3	.....	.....
For urethral calculus . . . . .	1	.....	.....	.....	.....	.....	1
For extravasation and cellulitis . . . . .	2	.....	.....	.....	.....	.....	2
<i>Bones and Joints.</i>							
Reduction of luxation of femur .....	1	.....	1	.....	.....	.....	.....
Reduction of luxation comp. of foot .....	1	.....	.....	.....	1	.....	.....
Reduction of luxation patella .....	2	.....	2	.....	.....	.....	.....
Reduction of luxation subastragaloid.....	1	.....	.....	.....	1	.....	.....
For fract. of patella .....	10	1	.....	.....	11	.....	.....
For fract. of femur, comp ....	2	.....	.....	.....	2	.....	.....
For fract. of humerus, comp .....	7	1	.....	5	3	.....	.....
For fract. of tibia and fibula, comp .....	5	.....	.....	.....	5	.....	.....
For fract. of tibia and fibula comp. w. ext. laceration .....	1	.....	.....	.....	.....	.....	1
For fract. of vault skull, comp. depressed .....	5	2	.....	6	.....	.....	.....
For fract. (Pott's) comp .....	1	.....	.....	.....	1	.....	.....
For fract. of nhua, comp .....	1	.....	.....	.....	1	.....	.....
For necrosis .....	8	.....	.....	.....	8	.....	.....
For osteo myelitis .....	1	.....	.....	.....	1	.....	.....
For foreign body knee-joint.....	1	.....	1	.....	.....	.....	.....
For ununited fractures .....	2	.....	1	.....	1	.....	.....
For malunion after fract. femur .....	1	.....	.....	.....	1	.....	.....

# IN-PATENTS — SURGICAL — (Concluded).

OPERATIONS.	Males.	Females.	Cured.	Improved.	Unimproved.	Died.
<i>Bones and joints — (Continued).</i>						
For tubercular arthritis.....	1	1	.....	2	.....	.....
For periostitis.....	3	1	.....	4	.....	.....
<i>Blood Vessels and Nerves.</i>						
For hemorrhoids.....	6	.....	6	.....	.....	.....
For varicoele.....	1	.....	1	.....	.....	.....
Ligation of arteries (rad., ulna and brach.).....	3	.....	.....	3	.....	.....
Liberation of musculo-spiral nerve.....	.....	1	.....	1	.....	.....
Liberation of brachial plexus.....	1	.....	.....	1	.....	.....
Neurectomy, int. and ext. popliteal.....	1	.....	.....	1	.....	.....
Neurorrhaphy of ulnar.....	2	.....	1	1	.....	.....
<i>Plastic.</i>						
For deformity, chin.....	1	.....	.....	1	.....	.....
Thiersch's skin-grafting.....	7	.....	.....	7	.....	.....
UNCLASSIFIED.						
<i>Removal of Tumors.</i>						
Epithelioma thigh.....	1	.....	.....	1	.....	.....
Epithelioma palate.....	1	.....	.....	1	.....	.....
Epithelioma face.....	1	.....	.....	1	.....	.....
Angioma tongue.....	.....	1	1	.....	.....	.....
Lipomata back.....	1	.....	.....	1	.....	.....

Sarcoma thigh . . . . .	1	.....	.....	.....	1	.....	.....
Adeno fibroma . . . . .	.....	1	.....	.....	1	.....	.....
Extensive suturing for lacerated wounds . . . . .	2	2	.....	.....	4	.....	.....
Curetting . . . . .	.....	3	.....	3	.....	.....	.....
Enucleation of eye . . . . .	3	.....	.....	.....	.....	.....	.....
Castration . . . . .	3	.....	.....	.....	3	.....	.....
For bursitis . . . . .	.....	2	.....	1	.....	.....	.....
For hallux valgus . . . . .	.....	.....	.....	.....	1	.....	.....
For empyema (resection of rib) . . . . .	1	.....	.....	.....	1	.....	.....
Tenorraphy of all extensor tendons, hands . . . . .	2	.....	.....	.....	1	.....	1
.....	1	.....	.....	.....	1	.....	.....
Total . . . . .	142	17	40	113	.....	.....	6

## OUT-PATIENT DEPARTMENT.

	Males.	Females.	Total.
Medical diseases.....	2,139	169	2,308
Surgical diseases.....	5,473	387	5,860
Injuries.....	13,419	968	14,387
	<hr/>	<hr/>	<hr/>
Total .....	21,031	1,524	22,555
	<hr/>	<hr/>	<hr/>

Total number of visits, 65,008.

## OUT-PATIENTS — SURGICAL OPERATIONS.

Amputation of phalanges.....	101
Ascites, tapping .....	4
Aspiration bladder.....	13
Catheterization .....	88
Condylomata, removed.....	1
Circumcision .....	26
Extraction of teeth.....	188
For bursitis.....	2
For external hemorrhoids .....	1
For foreign bodies, removed.....	333
For hydrocele, tapping.....	5
For ingrowing toe-nail... ..	19
For necrosis .....	3
Incision for inflammatory processes .....	694
Meatotomy .....	1
Plugging nares.....	13
Reduction of luxations.....	116
Reduction of paraphimosis .....	4
Reduction of hernial, taxis .....	6
Tenorrhaphy.....	29
Tenotomy for hammer-toe .....	1
Revaccination .....	60
Urethrotomy, int.....	3
Cysts .....	9
Ganglion .....	2
	<hr/>
Total .....	1,722
	<hr/>

OUT-PATIENT DEPARTMENT.

Fractures and dislocations.	Fractures.	Luxations.
Carpus.....	2	..
Clavicle .....	50	6
Femur.....	4	2
Fibula .....	28	..
Humerus .....	50	46
Ilium :.....	1	..
Malar.....	..	..
Maxilla, inf.....	22	8
Maxilla, sup.....	4	..
Metacarpal.....	84	..
Metacarpal-phalangeal.....	..	7
Metatarsal.....	16	..
Nasal .....	42	..
Patella.....	6	..
Phalanges .....	184	30
Radius.....	129	2
Radius and ulna.....	17	13
Ribs.....	102	..
Scapula .....	5	..
Skull, vault circumscribed.....	6	..
Skull, vault fissure.....	4	..
Tibia, shaft.....	4	..
Tibia, and fibula, shaft.....	3	..
Potts' .....	29	..
Ulna .....	35	1
Total .....	827	115

AMBULANCE SERVICE.

Total number of calls. ....	2,844
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Transfers.

Bellevue Hospital.....	1,000
New York Hospital.....	128
Brooklyn.....	28
Home .....	15
Trinity Hospital .....	8
St. Vincent's Hospital.....	8
St. Francis' Hospital.....	4
St. Luke's Hospital.....	1

Gouverneur Hospital .....	2
Emergency Hospital.....	2
Marine Hospital.....	2
Eye and Ear Hospital.....	1
Jersey City.....	1
Chambers Street Ferry.....	1
Barclay Street Ferry.....	1
Staten Island Ferry.....	1
Pier A, N. R.....	2
Barge office.....	1
Tombs .....	1
Fifth Precinct.....	1
Sixth Precinct.....	1
	<u>1,290</u>

## RECEPTION WARD.

	Males.	Females.	Total.
Medical .....	933	154	1,087
Surgical.....	144	58	202
Injuries .....	613	70	683
Total .....	<u>1,690</u>	<u>282</u>	<u>1,972</u>

Deaths in Reception Ward..... 115

Of these 1,972 cases, only those remaining twenty-four hours in the hospital appear in the preceding lists.

## SUMMARY OF REPORT FOR 1893.

Patients remaining in wards January 1, 1893.....	5
Patients admitted to wards during (including all cases remain- ing in reception ward over 24 hours) .....	362
Total number of patients treated in wards.....	<u>367</u>

## Patients discharged from wards:

Cured .....	75
Improved .....	248
Unimproved ....	6
Died .....	33
	<u>362</u>

Patients remaining in wards January 1, 1894..... 5

## Reception ward :

Total number of patients treated.....	1,972
Deaths from injuries within twenty-four hours.....	29
Deaths from disease within twenty-four hours.....	46

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## Out-patient department:

Total number of patients treated.....	22,555
Total number of visits.....	65,008

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## Ambulance service:

Number of calls.....	2,844
Number of transfers.....	1,209

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Operations in wards.....	159
Operations in out-patient department.....	1,722
Hospital days.....	3,134
Hospital days reception ward.....	2,563

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# Pathological Department.

## PREPARATIONS ADDED DURING THE YEAR.

Belonging to the osseous system.....	8
Belonging to the joints and tendons .....	2
Belonging to the digestive system.....	30
Belonging to the respiratory system.....	2
Belonging to the circulatory system .....	20
Belonging to the nervous system.....	1
Belonging to the genito-urinary system.....	20
Tumors.....	16
Miscellaneous .....	1
Total .....	100

The preparations in the cabinet are classified as follows:

Belonging to the osseous system.....	577
Belonging to the joints and tendons .....	64
Belonging to the digestive system.....	422
Belonging to the respiratory system.....	88
Belonging to the circulatory system.....	356
Belonging to the nervous system.....	143
Belonging to the genito-urinary system .....	544
Casts .....	175
Pictures .....	347
Tumors .....	240
Miscellaneous .....	86
Total .....	3,042

## LIBRARY.

Total number of volumes.....	20,798
Added during the year.....	385
Periodicals — United States, current .....	31
Great Britain, current.....	13
France, current.....	30
Germany, current .....	41
Transactions, hospital and other reports, current.....	50

GOVERNORS OF THE SOCIETY OF THE NEW YORK HOSPITAL.

The following is a list of the names of Governors from the commencement of the institution to the 6th of February, 1894, with the date of their respective elections and the length of time they continued in office:

GOVERNORS.		Elected.	Resigned.	Served the institution.	
A.					
Charles Ward-Apthorp.....	1770	1784	14 years	}	Died in office, 1819.
William Axtell .....	1770	1784	14 do		
John Alsop.....	1784	1788	4 do		
Gilbert Aspinwall .....	1799	1809			
Gilbert Aspinwall .....	1811	1812	15 do		
Gilbert Aspinwall .....	1815	....		}	
John Atkinson.....	1800	1809	9 do		
John Aspinwall .....	1814	1817	3 do		
John Adams.....	1818	1854	36 do		
Stephen Allen .....	1823	1830	24 do	}	Died in office, 1852.
Stephen Allen .....	1835	....			
Augustin Averill.....	1848	1857	9 do		
John Jacob Astor.....	1860	1864	4 do		Died in office, 1879.
George W. Abbe.....	1877	....	2 do		
William W. Astor .....	1879	1882	3 do		
B.					
Gerardus William Beekman .....	1770	1777	7 do	}	
George Bowne.....	1770	1784			
George Bowne.....	1785	1797	26 do		
William Bayard .....	1777	1784		}	
William Bayard .....	1800	1802	9 do		

# LIST OF GOVERNORS — (Continued).

GOVERNORS.	Elected.	Resigned.	Served the institution.	
Robert Bowne.....	1784	....	34 years	Died in office, 1818.
Aaron Burr....	1784	1792	8 do	
James Beekman.....	1785	1787	2 do	
Theophylact Bache.....	1785	1797	12 do	
Thomas Buchanan.....	1785	1800	15 do	
Francis Basset.....	1785	1787	2 do	
William Backhouse.....	1787	1792	5 do	
Nicholas Bayard.....	1794	1798	4 do	
John Barrow.....	1795	1807	12 do	
Samuel Bowne.....	1796	1797	1 year	
Walter Bowne.....	1800	1805	5 years	
Dr. Samuel Bard.....	1801	1802	1 year	
Rev. Abraham Beach.....	1801	1806	5 years	
Thomas Buckley.....	1802	1842	40 do	
John Bogert.....	1804	1817	13 do	
John L. Bowne.....	1810	1815	5 do	
Abraham Barker.....	1813	1816	3 do	
Robert H. Bowne.....	1815	1827	12 do	
William Bayard, Jr.....	1818	1823	5 do	
John L. Buckley.....	1842	1855	13 do	
James W. Beekman.....	1850	1854	23 do	Died in office, 1877.
James W. Beekman.....	1858	....		
Nathaniel P. Bailey.....	1858	....	33 do	Died in office, 1891.
James M. Brown.....	1861	....	29 do	Died in office, 1890.
Theodore B. Bronson.....	1864	1868	4 do	
James H. Banker.....	1869	....	8 do	

James William Beekman.....	1884	....	10 do	Continues in office.
Cornelius N. Bliss.....	1885	....	9 do	Continues in office.
George S. Bowdoin.....	1887	....	7 do	Continues in office.
Waldron Post Brown.....	1887	....	7 do	Continues in office.
C.				
David Clarkson.....	1770	1777	7 do	
Matthew Clarkson.....	1792	1822	30 do	
John Campbell . . . . .	1794	1797	3 do	
John B. Coles . . . . .	1796	1798	2 do	
Isaac Collins.....	1800	1808	8 do	
John T. Champlin.....	1801	1811	10 do	
John G. Coster . . . . .	1801	1803	2 do	
Samuel Corp.....	1801	1802	1 year	
Richard Cunningham.....	1812	1814	2 years	
Cadwallader D. Colden . . . . .	1812	1827	15 do	
Nathan Comstock.....	1818	1823	5 do	
Duncan P. Campbell . . . . .	1818	1827	9 do	
John Clark, Jr.....	1819	1834	15 do	
Isaac Carow.....	1826	....	24 do	Died in office, 1850.
Robert C. Cornell.....	1832	....	13 do	Died in office, 1845.
Stacy B. Collins.....	1846	1864	18 do	
Henry Chauncey.....	1848	1852	4 do	
James N. Cobb . . . . .	1855	1861	6 do	
David Clarkson . . . . .	1856	1865	9 do	
Frederick A. Conkling.....	1857	....	34 do	Died in office, 1891.
Henry Chauncey, Jr.....	1859	1865	9 do	
Israel Corse . . . . .	1864	1869	5 do	
Joseph H. Choate.....	1877	....	17 do	Continues in office.
Hermann H. Cammann.....	1882	....	12 do	Continues in office.

## LIST OF GOVERNORS — (Continued).

GOVERNORS.		Elected.	Resigned.		Served the institution.
D.					
Oliver Delancey	.....	1770	1784	14 years	Died in office, 1778.
Elias Desbrosses	.....	1775	....	3 do	
James Duane	.....	1784	1789	5 do	
William Denning	.....	1784	1792	} 14 do	
William Denning	.....	1805	1811		
Jacob de la Montagnie	.....	1797	1802	5 do	
Frederick De Peyster	.....	1809	1818	9 do	
Cornelius Dubois	.....	1814	1818	4 do	
James F. De Peyster	.....	1827	1869	42 do	
James Donaldson	.....	1843	1856	} 17 do	
James Donaldson	.....	1858	1862		
William Dennistoun	.....	1865	....	10 do	Died in office, 1875. Died in office, 1890. Continues in office. Continues in office. Continues in office.
Henry J. Davison	.....	1873	....	17 do	
William Alexander Duer	.....	1890	....	4 do	
Henry W. de Forest	.....	1890	....	4 do	
George G. De Witt	.....	1892	....	2 do	
E.					
Andrew Elliott	.....	1770	1784	14 do	Died in office, 1827.
Lawrence Embree	.....	1784	1796	12 do	
William Edgar	.....	1787	1798	11 do	
Thomas Eddy	.....	1793	....	34 do	
William Edgar, Jr.	.....	1819	1823	4 do	
F.					
Walter Franklin	.....	1770	....	11 do	Died in office, 1781.

Dr. John Fothergill (London)	1770	1773	3 do		
George Follitt	1770	1784	14 do		
Samuel Franklin	1781	1794	13 do		
Sampson Fleming	1789	1792	3 do		
Gabriel Furman	1794	1797	3 do		
Thomas Franklin	1796	1798	28 do	}	
Thomas Franklin	1803	1829			
John Franklin	1806	1808	2 do		
Matthew Franklin	1807	1815	8 do		
Moses Field	1817	1818	1 year		
Augustus Fleming	1837	1856	19 years		
Thos. Hall Faile	1855	....	18 do		Died in office, 1873.
William H. Fogg	1877	....	7 do		Died in office, 1884.
G.					
Hugh Gaine	1790	1806	16 do		
John I. Glover	1796	1802	6 do		
Archibald Gracie	1802	1803	1 year		
Jonathan Goodhue	1823	....	25 years		Died in office, 1848.
John C. Green	1856	....	19 do		Died in office, 1875.
Sheppard Gandy	1864	....	30 do		Continues in office.
George D. H. Gillespie	1866	1872	6 do		
Elbridge T. Gerry	1878	....	16 do		Continues in office.
H.					
Whitehead Hicks	1770	..	11 do		Died in office, 1781.
Henry Haydock	1777	1794	17 do		
Joseph Hallett	1785	1787	2 do		
Abijah Hammond	1794	1795	1 year		
Henry Haydock, Jr.	1797	1802	5 years		
Valentine Hicks	1809	1812	3 do		

LIST OF GOVERNORS. — (Continued).

GOVERNORS.	Elected.	Resigned.	Served the institution.
Philip Hone.....	1823	1840	17 years
James Heard .....	1829	1843	14 do
John Hone .....	1831	....	1 year
Jacob Harvey .....	1838	....	10 years
William M. Halstead .....	1841	1856	15 do
George F. Hussey.....	1849	1859	10 do
Abraham S. Hewitt .....	1857	1859	2 do
William J. Hoppin .....	1866	1867	1 year
William B. Hoffman.....	1866	....	14 years
Meredith Howland.....	1873	....	4 do
William M. Halsted .....	1875	....	19 do
William Warner Hoppin .....	1877	....	17 do
George G. Haven.....	1892	....	2 do
J.			
James Jauncey.....	1777	1784	7 do
Samuel Jones.....	1784	1790	}
Samuel Jones.....	1792	1794	
John Jay.....	1787	1789	2 do
William Jauncey.....	1797	1802	5 do
John Jones.....	1799	1802	3 do
William Johnson.....	1804	1824	20 do
Peter A. Jay.....	1809	1833	24 do
Edward R. Jones .....	1834	1837	3 do
James I. Jones.....	1840	....	18 do
George F. Jones .....	1854	1867	13 do
			Died in office, 1858.
			Died in office, 1832.
			Died in office, 1848.
			Died in office, 1880.
			Continues in office.
			Continues in office.
			Continues in office.

James Boorman Johnston	1859	1876	17 do	
Edward S. Jaffray	1867	1878	11 do	
K.				
Lawrence Kortright	1770	1786	16 do	
Archibald Kennedy	1770	1779	9 do	
John Keese	1787	1794	7 do	
William Kenyon	1795	1797	2 do	
Rev. John C. Kunzie	1797	1806	9 do	
James Kent	1797	1798	}	
James Kent	1827	1830		
John Kane	1806	1809	3 do	
David S. Kennedy	1845	...	8 do	
Robert Lenox Kennedy	1853	...	34 do	Died in office, 1853.
William M. Kingsland	1885	1888	3 do	Died in office, 1887.
Edward King	1888	...	6 do	Continues in office.
L.				
Robert R. Livingston	1770	...	6 do	
Abraham Lott	1770	1777	}	
Abraham Lott	1784	1787		
Leonard Lispenard	1770	1777	}	
Leonard Lispenard	1784	1787		
Philip Livingston	1770	1777	7 do	
Peter Van Brugh Livingston	1770	1777	}	
Peter Van Brugh Livingston	1784	1785		
John Livingston	1777	1786	9 do	
William Laight	1787	1803	16 do	
R. R. Livingston, Jr.	1787	1794	7 do	
John Lawrence	1787	1794	7 do	

LIST OF GOVERNORS — (Continued).

GOVERNORS.		Elected.	Resigned.	Served the institution.	
Jonathan Little . . . . .		1798	1803	{	25 years
Jonathan Little . . . . .		1806	....		
Richard R. Lawrence . . . . .		1798	1799		
Dr. John C. Lettsom (London) . . . . .		1800	1804		
Herman Le Roy . . . . .		1803	1804		
Jacob Le Roy . . . . .		1804	1805	{	1 do
John B. Lawrence . . . . .		1808	....		
James Lovett . . . . .		1824	1847		
Edward W. Laight . . . . .		1830	1831		
Richard M. Lawrence . . . . .		1837	1853		
Robert J. Livingston . . . . .		1865	....	{	26 do
Herman R. Le Roy . . . . .		1875	1884		
M.					
Roger Morris . . . . .		1770	1773	{	10 do
Roger Morris . . . . .		1777	1784		
Abraham Mortier . . . . .		1770	....		
William McAdam . . . . .		1770	....		
Nathaniel Marston . . . . .		1770	1772		
John Murray . . . . .		1773	1775	{	2 do
John Murray . . . . .		1781	....		
David Matthews . . . . .		1776	1784		
Charles McEvers . . . . .		1777	1784		
Robert Murray . . . . .		1784	1787		
Lindley Murray . . . . .		1784	1785	{	30 do
Richard Morris . . . . .		1784	1793		
				{	8 do
				{	7 do
				{	3 do
				{	1 year
				{	9 years

William Maxwell.....	1784	1792	8 do	Died in office, 1819.
Alexander McDougall.....	1784	1787	3 do	
John Murray, Jr.....	1787	....	32 do	
Alexander McComb .....	1788	1792	4 do	
William Minturn.....	1796	1802	6 do	
John McVicker.....	1798	1802	4 do	
Benjamin G. Minturn.....	1799	1802	3 do	
Robert Mott.....	1800	1802	2 do	
Samuel Mansfield .....	1803	1809	6 do	
Andrew Morris.....	1804	1823	19 do	
John R. Murray.....	1806	1837	31 do	Died in office, 1858.
Samuel Mott.....	1810	1814	4 do	
Peter Mesier.....	1810	1819	9 do	
Robert I. Murray.....	1816	....	42 do	
John McCombe, Jr .....	1818	1837	19 do	
Samuel F Mott .....	1837	1846	9 do	
E. D. Morgan.....	1850	1859	9 do	
D. Colden Murray. ....	1853	1882	29 do	
William H. Macy.....	1869	....	18 do	
Harry M. Morris .....	1874	1876	2 do	
William D. Morgan .....	1882	....	5 do	Died in office, 1887. Continues in office.
Fordham Morris .....	1891	....	3 do	
N.				
George Newbold .....	1808	1810	} 48 do	Died in office, 1853.
George Newbold .....	1811	1857		
Russell H. Nevins .....	1852	....		
O.				
Samuel Osgood.....	1792	1795	3 years	
D. W. C. Olyphant.....	1848	1850	2 do	

## LIST OF GOVERNORS — (Continued).

GOVERNORS.		Elected.	Resigned.	Served the institution.	
Geo. Talbot Olyphant.....		1855	1864	{	Died in office, 1873.
Geo. Talbot Olyphant.....		1869	...		
Wm. H. Osborne.....		1876	1879		
Frederick P. Olcott.....		1888	1889		
P.					
Thomas Pearsall .....		1772	1777	{	16 years
Thomas Pearsall .....		1784	1795		
Daniel Phenix.....		1784	1787		
Edmund Prior .....		1795	1803		
Jotham Post.....		1795	1796	{	2 do
Jotham Post.....		1801	1802		
Elijah Pell .....		1798	1799		
William Post.....		1800	....		
John V. Provost .....		1802	1805	{	Died in office, 1805.
Henry Post, Jr.....		1803	1810		
Benjamin D. Perkins .....		1808	1809		
Benjamin D. Perkins .....		1810	....		
Henry L. Pierson .....		1858	1863	{	Died in office, 1810.
R.					
Isaac Roosevelt .....		1774	1777		
Isaac Roosevelt .....		1784	1794		
Walter Rutherford.....		1784	1788	{	13 do
Alexander Robertson .....		1790	1793		
Cornelius Ray ...		1792	1797		

Moses Rodgers.....	1792	1799	7 do	Continues in office. Continues in office. Continues in office.
Henry Rutgers . . . .	1794	1798	4 do	
William Robinson.....	1797	1802	5 do	
Herman G. Rutgers . . . .	1801	1803	2 do	Continues in office. Continues in office. Continues in office.
John P. Ritter.....	1806	1813	7 do	
Benjamin W. Rodgers.....	1818	1855	37 do	
Nathaniel Richards.....	1827	1851	24 do	Continues in office. Continues in office. Continues in office.
Edmund D. Randolph . . . .	1890	....	4 do	
James R. Roosevelt.....	1891	....	3 do	
John Harsen Rhoades.....	1894	....	.....	
S.				
William Smith.....	1770	1777	} 12 do	
William Smith.....	1779	1784		
William Shotwell.....	1794	1795	1 year	
Peter Schermerhorn . . . .	1795	1802	7 years	
Paschal N. Smith . . . . .	1799	1802	3 do	
James Scott . . . . .	1802	1814	12 do	
Jacob Sherred . . . . .	1809	1819	10 do	
Ebenezer Stevens.....	1809	....	14 do	Died in office, 1823.
Allen Shepherd . . . . .	1809	1810	1 year	
Rev. F. C. Shaffer . . . . .	1819	1827	8 years	
Thomas R. Smith . . . . .	1822	....	25 do	Died in office, 1847.
Benjamin L. Swan . . . . .	1827	1857	30 do	
John A. Stevens . . . . .	1828	1869	41 do	
Peter G. Stuyvesant . . . . .	1833	1838	5 do	
Frederick Sheldon . . . . .	1837	1855	18 do	
Caleb Swan.....	1851	1854	3 do	
Thos. B. Stillman . . . . .	1855	....	11 do	Died in office, 1866.
Otis D. Swan.....	1858	....	19 do	
Jackson S. Schultz.....	1865	1890	25 do	

LIST OF GOVERNORS — ( *Concluded* ).

GOVERNORS.	Elected.	Resigned.	Served the institution.	
Chas. E. Strong.....	1877	....	17 years	Continues in office.
Philip Schuyler.....	1880	....	14 do	Continues in office.
James O. Sheldon.....	1881	....	13 do	Continues in office.
J. Edward Simmons.....	1892	....	2 do	Continues in office.
T.				
John Thurston.....	1797	1804	7 do	
Najah Taylor.....	1810	1960	50 do	
Thomas C. Taylor.....	1817	1829	12 do	
George Taylor.....	1827	1827	$\frac{1}{2}$ year	
George T. Trimble.....	1846	....	26 years	Died in office, 1872.
Jonathan Thorn.....	1868	1875	7 do	
Merritt Trimble.....	1872	....	22 do	Continues in office.
Samuel Thorne.....	1887	1888	11 do	
William Turnbull.....	1878	....	15 do	Died in office, 1893.
Frederick D. Tappen.....	1892	....	2 do	Continues in office.
U.				
William Ustick.....	1777	1784	7 do	
William Ustick, Jr.....	1709	1802	3 do	
V.				
Augustus Van Cortland.....	1777	1786	9 do	
Augustus Van Horn.....	1780	1785	} { }	
Augustus Van Horn.....	1793	1794		
Richard Varick.....	1794	1795		
Richard Varick.....	1802	1804	3 do	

Gulian Verplanck .....	1798	1799	1 year	
Wynant Van Zandt, Jr .....	1806	1808	2 years	
Gulian C. Verplanck .....	1823	1865	42 do	
Hubert Van Wagenen .....	1835	1838	2 do	
W.				
John Watts .....	1770	1784	14 do	
Hugh Wallace .....	1770	1784	14 do	
Henry White .....	1770	1773	} 10 do	
Henry White .....	1777	1784		
Jacob Walton .....	1773	1777	4 do	
Gerard Walton .....	1789	1799	10 do	
Robert Watts .....	1791	1792	1 year	
James Watson .....	1792	1799	} 8 years	
James Watson .....	1801	1802		
Gilbert C. Willett .....	1794	1797	3 do	
William W. Woolsey .....	1799	1802	} 8 do	
William W. Woolsey .....	1829	1834		
Joshua Waddington .....	1801	1802	1 year	
Henry I. Wyckoff .....	1802	1809	} 16 years	Died in office, 1839.
Henry I. Wyckoff .....	1830	....		Died in office, 1819.
Dr. Hugh Williamson .....	1814	....	5 do	
Ezra Weeks .....	1823	1834	11 do	
Charles Wilkes .....	1827	1828	1 year	
John David Wolfe .....	1854	....	18 years	Died in office, 1872.
Joseph Walker .....	1855	....	11 do	Died in office, 1866.
Samuel Willets .....	1860	....	23 do	Died in office, 1883.
George Cabot Ward .....	1865	....	22 do	Died in office, 1887.
John Earle Williams .....	1869	....	8 do	Died in office, 1877.
Theodorus B. Woolsey .....	1873	....	21 do	Continues in office.

# OFFICERS OF THE BOARD OF GOVERNORS OF THE SOCIETY OF THE NEW YORK HOSPITAL.

PRESIDENTS.		Elected.	Resigned.	Served the institution.	
John Watts . . . . .	1770	1784	14 years		
John Alsop . . . . .	1784	1788	4 do		
Richard Morris . . . . .	1788	1790	2 do		
Isaac Roosevelt . . . . .	1790	1794	4 do		
Theophylact Bache . . . . .	1794	1797	3 do		
Gerard Walton . . . . .	1797	1799	2 do		
Matthew Clarkson . . . . .	1799	1822	23 do		
Thomas Eddy . . . . .	1822	1827	5 do		
Peter Augustus Jay . . . . .	1827	1833	6 do		
George Newbold . . . . .	1833	1857	24 do		Died in office, 1872.
George T. Trimble . . . . .	1858	...	14 do		Died in office, 1875.
John C. Green . . . . .	1872	...	3 do		
Robert Lenox Kennedy . . . . .	1875	1882	7 do		
William H. Macy . . . . .	1882	...	5 do		Died in office, 1887.
James M. Brown . . . . .	1887	...	3 do		Died in office, 1890.
Robert J. Livingston . . . . .	1890	...	.....		Died in office, 1891.
Merritt Trimble . . . . .	1891	...	3 do		Continues in office.
VICE-PRESIDENTS.					
Andrew Elliott . . . . .	1770	1784	14 do		Elected president, 1788.
Abraham Lott . . . . .	1784	1787	3 do		Elected president, 1790.
Richard Morris . . . . .	1787	...	1 year		Elected president, 1794.
Isaac Roosevelt . . . . .	1788	...	2 years		Elected president, 1797.
Theophylact Bache . . . . .	1790	...	4 do		Elected president, 1799.
Gerard Walton . . . . .	1794	...	3 do		
Matthew Clarkson . . . . .	1797	...	2 do		

Hugh Gaine.....	1799	1805	6 do	
Robert Bowne.....	1805	1818	13 do	
Thomas Eddy .....	1818	....	4 do	Elected president, 1822.
Peter Augustus Jay .....	1822	....	5 do	Elected president, 1827.
Thomas Buckley .....	1827	1833	6 do	
Najah Taylor.....	1833	1837	4 do	
Isaac Caro .....	1837	1849	12 do	
George T. Trimble .....	1850	...	8 do	Elected president, 1858.
Gulian C. Verplanck.....	1858	1865	7 do	
John David Wolfe .....	1865	....	7 do	Died in office, 1872.
Robert Lenox Kennedy.....	1872	....	3 do	Elected president, 1875.
James W. Beekman .....	1875	....	2 do	Died in office, 1877.
Samuel Willets .....	1877	1882	5 do	
James M. Brown.....	1882	....	5 do	Elected president, 1887.
Robert J. Livingston .....	1887	....	3 do	Elected president, 1890.
Merritt Trimble.....	1890	....	.....	Elected president, 1891.
Nathaniel P. Bailey .....	1891	....	.....	Died in office, 1891.
Sheppard Gandy .....	1892	....	2 do	Continues in office.
TREASURERS.				
Peter Van Brugh Livingston.....	1770	1777	7 do	
Henry Haydock.....	1777	1792	15 do	
John Murray.....	1792	1808	16 do	
Thomas Eddy.....	1808	1818	10 do	
John Adams.....	1818	1854	36 do	
John A. Stevens.....	1854	1862	8 do	
Robert Lenox Kennedy.....	1862	1872	10 do	
William Dennistoun.....	1872	....	3 do	Died in office, 1875.
William H. Macy.....	1875	....	7 do	Elected president, 1882.
George Cabot Ward.....	1882	1885	3 do	
William D. Morgan.....	1885	....	2 do	Died in office, 1887.

OFFICERS OF THE BOARD OF GOVERNORS — ( *Concluded* ).

TREASURERS.	Elected.	Resigned.	Served the institution.	
Cornelius N. Bliss.....	1887	....	7 years	Continues in office.
ASSISTANT TREASURERS.				
Benjamin W. Rogers.....	1818	1822	4 do	} Office then abolished.
Robert H. Bowne.....	1822	1827	5 do	
SECRETARIES.				
John Moore.....	1770	1784	14 do	
John Murray, Jr.....	1784	1787	3 do	
John Keese.....	1787	1794	7 do	
Thomas Eddy.....	1794	1799	5 do	
John Barrow.....	1799	1800	1 year	
Thomas Eddy.....	1800	1806	6 years	
Henry Post, Jr.....	1806	1807	1 year	
Thomas Buckley.....	1807	1824	17 years	
Robert I. Murray.....	1824	....	34 do	Died in office, 1858.
D. Colden Murray.....	1858	....	27 do	Died in office, 1885.
Henry W. Crane.....	1885	....	9 do	Continues in office.

PHYSICIANS AND SURGEONS.

The following are the names of the gentlemen who have served the institution as physicians and surgeons, in the order of their appointment, together with the date of their resignation or death, and their respective periods of service :

PHYSICIANS AND SURGEONS.		Elected.	Resigned.	Served the institution.	
P	Samuel Bard.....	1774	1797	23 years	
P	Peter Middleton.....	1774	1791	17 do	
P	John Jones.....	1774	1791	17 do	
P	Malachi Treat.....	1774	1794	20 do	
P	John Charlton.....	1791	1792	1 year	
P	Thomas Jones.....	1791	1792	} 4 years	
S	Thomas Jones.....	1792	1795		
S	Richard Bayley.....	1792	1805	13 do	
S	James Tillary.....	1792	1792	1 month	
S	Wright Post.....	1792	1821	} 36 years	Died in office, 1828.
Cons'g S	Wright Post.....	1821	....		
S	Richard S. Kissam.....	1792	1796	} 29 do	Died in office, 1822.
S	Richard S. Kissam.....	1797	....		
P	Samuel Nicholl.....	1792	1796	4 do	
P	William P. Smith.....	1792	1796	4 do	
P	J. R. B. Rodgers.....	1794	1807	13 do	
S	Samuel Borrowe.....	1795	1817	22 do	
S	Valentine Seaman.....	1796	....	21 do	Died in office, 1817.
P	Elihu H. Smith.....	1796	....	2 do	Died in office, 1817.
P	Samuel L. Mitchell.....	1796	1817	21 do	
P	David Hosack.....	1797	1806	} 34 do	
P	David Hosack.....	1807	1826		Died in office, 1832.
Cons'g P	David Hosack.....	1826	....		

## PHYSICIANS AND SURGEONS — (Continued).

PHYSICIANS AND SURGEONS.		Elected.	Resigned.	Served the institution.	
P . . . . .	William Hamersley . . . . .	1798	1817	{	Died in office, 1833.
Cons'g P . . . . .	William Hamersley . . . . .	1821	. . . .		Died in office, 1812.
P . . . . .	Edward Miller . . . . .	1806	. . . .		Died in office, 1817.
P . . . . .	James S. Stringham . . . . .	1807	. . . .	9 do	
P. to L. A. . . . .	Archibald Bruce . . . . .	1808	1817	8 do	Died in office, 1817.
P . . . . .	John C. Osborne . . . . .	1809	. . . .	1 year	
P . . . . .	Benjamin Dewitt . . . . .	1809	1810	{	Died in office, 1865.
S . . . . .	Valentine Mott . . . . .	1817	1837		
Cons'g S . . . . .	Valentine Mott . . . . .	1837	. . . .		
S . . . . .	Alex H. Stevens . . . . .	1817	1839	{	Died in office, 1869.
Cons'g S . . . . .	Alex H. Stevens . . . . .	1839	. . . .		
P . . . . .	John Watts . . . . .	1817	1829		Died in office, 1831.
Cons'g P . . . . .	John Watts . . . . .	1829	. . . .	{	
P . . . . .	John Neilson . . . . .	1817	1819		
P. to L. A. . . . .	John Neilson . . . . .	1819	1829		
C. P. to B. A. . . .	John Neilson . . . . .	1829	1830	{	
P. to L. A. . . . .	William Handy . . . . .	1817	1819		
P . . . . .	Peter C. Tappan . . . . .	1817	1824		
P . . . . .	Thomas Cock . . . . .	1819	1834	{	Died in office, 1869.
Cons'g P . . . . .	Thomas Cock . . . . .	1834	. . . .		
S . . . . .	John C. Cheesman . . . . .	1821	1856		Died in office, 1862.
Cons'g S . . . . .	John C. Cheesman . . . . .	1856	. . . .	{	Died in office, 1851.
S . . . . .	J. Kearney Rodgers . . . . .	1822	. . . .		
P . . . . .	Samuel W. Moore . . . . .	1824	1828		
P . . . . .	Stephen Brown . . . . .	1826	1832	6 do	

P	Fr. U. Johnston	1828	1848	}	30	do	Died in office, 1858.
Cons'g P	Fr. U. Johnston	1848	...				
P. to B. A.	James Macdonald	1829	1830	}	6	do	
	James Macdonald	1832	1837				
P	Joseph M. Smith	1829	...	}	37	do	Died in office, 1866.
P. to B. A.	Guy C. Bayley	1830	1832		2	do	
P	John B. Beck	1832	1833	}	11	do	
P	Edw. Delafield	1834	1838		4	do	
S	Alfred C. Post	1836	1853	}	50	do	Died in office as consulting surgeon, 1886.
Cons'g S	Alfred C. Post	1853	...				
S	R. K. Hoffman	1836	1851	}	24	do	Died in office, 1860.
Cons'g S	R. K. Hoffman	1851	...				
S	John G. Adams	1837	1837	}	40	do	Died in office, 1877.
S	Gurdon Buck	1837	...				
P. to B. A.	Benjamin Ogden	1837	1839	}	2	do	
P	James Macdonald	1838	1843		5	do	
P. to B. A.	William Wilson	1839	1844	}	5	do	
S	John Watson	1839	1863		24	do	
P	John A. Swett	1842	...	}	12	do	Died in office, 1854.
P	John H. Griscom	1843	1866		23	do	
P. to B. A.	Pliny Earle	1844	1849	}	5	do	
P	Henry D. Bulkley	1848	...		24	do	Died in office, 1872.
P. to B. A.	Charles H. Nichols	1849	1852	}	15	do	Died in office, 1889.
M. S. to B. A.	Charles H. Nichols	1877	...				
S	Thaddeus M. Halsted	1851	1865	}	19	do	Died in office, 1870.
Cons'g S	Thaddeus M. Halsted	1865	...				
S	Thomas M. Markoe	1852	1892	}	42	do	Continues in office as consulting surgeon.
Cons'g S	Thomas M. Markoe	1892	...				
P. to B. A.	D. Tilden Brown	1852	1877	}	25	do	
S	William H. Van Buren	1853	1860				Died in office as consulting surgeon.
Cons'g S	William H. Van Buren	1867	...	}	23	do	

PHYSICIANS AND SURGEONS — (Concluded).

PHYSICIANS AND SURGEONS.		Elected.	Resigned.	Served the institution.	
P . . . . .	John T. Metcalf . . . . .	1854	1855	1 year	Continues in office as con-
P . . . . .	Thomas F. Cock . . . . .	1855	1878	35 years	sulting physician.
Cons'g P . . . . .	Thomas F. Cock . . . . .	1878	...	28 do	Died in office as consulting
S . . . . .	Willard Parker . . . . .	1856	1867	34 do	surgeon, 1884.
Cons'g S . . . . .	Willard Parker . . . . .	1867	...	5 do	Continues in office as con-
S . . . . .	George A. Peters . . . . .	1860	1884	32 do	sulting surgeon.
Cons'g S . . . . .	George A. Peters . . . . .	1884	...	20 do	Continues in office.
P . . . . .	Thomas B. Dash . . . . .	1862	1867	15 do	
P . . . . .	William H. Draper . . . . .	1862	1889	28 do	
Cons'g P . . . . .	William H. Draper . . . . .	1889	1893	28 do	Died in office, 1880.
P . . . . .	William H. Draper . . . . .	1893	...	27 do	
S . . . . .	Henry B. Sands . . . . .	1863	1883	8 do	
S . . . . .	Charles M. Allin . . . . .	1865	...	15 do	Continues in office as con-
P . . . . .	Gouverneur M. Smith . . . . .	1866	1879	28 do	sulting physician.
Cons'g P . . . . .	Gouverneur M. Smith . . . . .	1879	...	28 do	Continues in office as con-
P . . . . .	Charles E. Hackley . . . . .	1866	1885	27 do	sulting physician.
Cons'g P . . . . .	Charles E. Hackley . . . . .	1885	...	8 do	Continues in office as con-
P . . . . .	James W. McLean . . . . .	1867	1884	15 do	sulting physician.
Cons'g P . . . . .	James W. McLean . . . . .	1884	...	18 do	Died in office, 1875.
S . . . . .	Ernst Kracowizer . . . . .	1867	...	11 do	Continues in office.
P . . . . .	Woolsey Johnson . . . . .	1872	...	10 do	Continues in office.
S . . . . .	Robert F. Weir . . . . .	1876	...	6 do	Continues in office.
S . . . . .	William T. Bull . . . . .	1883	...		
P . . . . .	George L. Peabody . . . . .	1884	...		
P . . . . .	A. Brayton Ball . . . . .	1888	...		

P .....	Edward L. Partridge.....	1888	1892	} 6 do 6 do 5 do 2 do 1 year 4 years .....	Continues in office as con- sulting physician.
Cons'g P .....	Edward L. Partridge.....	1893	....		Continues in office.
S .....	Lewis A. Stimson.....	1888	....		Continues in office.
P .....	W. Gilman Thompson.....	1889	....		Continues in office.
S .....	Frank Hartley.....	1892	....		Continues in office.
S .....	Francis W. Murray .....	1893	....		Continues in office.
M. S. to B. A ...	Samuel B. Lyon .....	1890	....		Continues in office.
Cons'g P .....	L. Durcan Bulkley .....	1894	....		Continues in office as con- sulting physician.

NOTE.—The above abbreviations are: P. for physician; S. for surgeon; cons'g P , consulting physician; cons'g S., consulting surgeon; B. A., Bloomingdale Asylum; M. S to B. A., Medical Superintendent to Bloomingdale Asylum.

# LIST OF MEMBERS.

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The following official persons, for the time being, are members of the society of the New York Hospital, by virtue of the charter, viz.:

The mayor of New York.

The recorder of New York.

The aldermen of New York.

The assistants of New York.

The rector of Trinity Church.

The president of Columbia College.

The senior minister of the Reformed Dutch Protestant Church.

The minister of the Ancient Lutheran Church.

The senior minister of the Presbyterian Church.

The minister of the German Reformed Calvinist Church.

The minister of the New Lutheran Church.

The minister of the Anabaptist Congregation.

The minister of the French Church.

The minister of the Moravian Church.

The minister of the Scotch Presbyterian Church.

# Members of the Society of the New York Hospital.

The asterisk (\*) denotes that the persons to whose names it is prefixed are dead.

## A.

Charles Ward Apthorp *	1771
William Axtell *	1771
John Alsop *	1771
Francis Atkinson *	
Josiah Adams *	
Gilbert Aspinwall *	1795
John Atkinson *	1797
William Adamson *	
John Jacob Astor *	1807
John Aspinwall *	1807
Stephen Allen *	1807
John Adams *	1807
Samuel Akerly *	1813
James Anderson *	1823
David Austin *	1827
Saul Alley *	1829
Moses Allen *	1829
William Adamson, Jr. *	1829
William H. Aspinwall *	1845
William B. Astor *	1845
George T. Adee *	1845
Augustin Averill *	1848
Loring Andrews *	1856
John L. Aspinwall *	1856
John Alstyne *	1856
John Jacob Astor *	1860
John G. Adams *	1874
George W. Abbe *	1877
Richard T. Auchmuty *	1878
Alexander McLane Agnew *	1878

Lloyd Aspinwall *	1878
Thatcher M. Adams	1878
William W. Astor	1879

## B.

Samuel Bard *	1771
William Bayard *	1771
John Bogert *	1771
Gerard William Beekman *	1771
George Bowne *	1771
Jonn Beekman *	1771
Samuel Bowne *	1771
Samuel Broome *	1771
Samuel Bowne Jr. *	
James Beekman *	1771
Theophylact Bache *	1771
Grove Bend *	1771
Evert Bancker *	1771
Thomas Buchanan *	1771
Andrew Barclay *	1771
William Brownjohn *	1771
Francis Basset *	1771
Thomas B. Bridgen *	1794
William Bowne *	1795
Robert Bowne *	1795
Joseph Byrnes *	1795
Samuel Bowne *	1795
Dr. John Bard *	1795
William Backhouse *	
Dirk Brinkerhoff *	
Benjamin Booth *	
Abraham Brinkerhoff *	
Walter Buchanan *	
Goldsboro Banyer *	
John Bogert *	1804
Samuel Belamy *	1809
John Barrow *	1809
Walter Bowne *	1809
Aaron Burr *	1809
Thomas Buckley *	1809
Gerard G. Beekman *	1809

G. G. Beekman, Jr.*	.....
James Bowne *	.....
James Buck *	.....
Samuel Burling *	.....
Robert L Bowne *	.....
Thomas H. Brantingham *	.....
John L. Bowne *	..... 1809
Abraham Bell *	..... 1809
J. E. K. Berck *	..... 1811
Egbert Benson *	..... 1810
Divie Bethune *	..... 1810
Robert H. Bowne *	..... 1814
Abraham Barker *	..... 1809
William Bayard, Jr *	..... 1816
Benjamin Butler *	..... 1816
Joseph Blackwell *	..... 1816
Abraham Brinckerhoff, Jr.*	..... 1816
Philip Brasher *	..... 1816
James Boyd, Jr.*	..... 1816
James Boorman *	..... 1816
Robert Blake *	..... 1823
John Bolton *	..... 1829
J. D. Beers *	..... 1829
William G. Buchnor *	..... 1829
Michael Burnham *	..... 1829
James Boggs *	..... 1829
Gurdon Buck *	..... 1829
John L. Buckley *	..... 1842
James Brown *	..... 1845
James W. Beekman *	..... 1850
Sidney Brooks *	..... 1856
August Belmont *	..... 1856
George Bruce *	..... 1856
William G. Bull *	..... 1856
Mrs. Maria Banyer *	..... 1856
Mrs. Isaac Burr *	..... 1856
Silas Bronson *	..... 1856
A. O. Brodie *	..... 1856
Mrs. Arthur Bronson	..... 1856
Miss Mary Bronson	..... 1856

Frederick Bronson *	1856
George Bell *	1856
Japhet Bishop *	1856
Robert H. Berdell	1856
Wyllis Blackstone *	1857
James Barnes *	1857
Joseph Battell *	1857
Nathaniel P. Bailey *	1857
George Hunter Brown	1859
James M. Brown *	1861
Theodore B. Bronson*	1864
Ann D. Brown	1866
David W. Bishop	1866
T. Alston Bishop *	1866
J. Muhlenberg Bailey	1866
James H. Banker *	1866
Benjamin F. Butler *	1868
John Bridge *	1869
William Tilden Blodgett *	1869
Heber R. Bishop	1877
James W. Beekman	1878
William Allen Butler	1878
Christopher C. Baldwin	1878
George S. Bowdoin	1880
Waldron Post Brown	1882
Cornelius N. Bliss	1883
Edmund L. Baylies	1885
Temple Bowdoin	1893

## C.

De Witt Clinton *	
Isaac U. Coles *	
Alexander Colden *	1771
David Clarkson *	1771
Cornelius Clopper *	1771
John Harris Cruger *	1771
John Crook *	1771
Isaac Corsa *	1771
Peter Clopper *	1784
Henry Cruger *	
Robert Crommelin *	

Matthew Clarkson *	1792
Henry Cruger, Jr.*	
Cadwallader Colden *	
Major Edward Clark *	
Daniel Cotton *	1795
James Constable *	
William Constable *	
Francis Childs *	
Isaac Cock *	1795
John B. Coles *	
John Clark *	1809
Samuel Corp *	1809
John T. Champlain *	1809
John G. Coster *	1809
John Church *	1809
Uriah Oliver Champlin *	1809
Thomas Collins *	1809
Richard Cunningham *	1809
Israel Corse *	1809
John Clark, Jr.*	1809
Willett Coles *	1809
Levinus Clarkson *	1810
Duncan Pearsall Campbell *	1810
William Cairnes *	1810
Peter Crary, Jr. *	1810
Issac Carow *	1810
David Clarkson *	1810
Matthew Clarkson Jr.*	1810
William Bayard Clarkson *	1810
Thomas Cadle *	1811
James Conklin *	1811
Cadwallader D. Colden *	1812
Benjamin U. Coles *	1816
William Crary *	1816
George Chance *	
Nathan Comstock *	1817
Thomas S. Clarkson *	1817
Isaac Collins *	1821
Stacey B. Collins *	1821
Joseph B. Collins *	1821
Thomas G. Cary *	1829

Robert C. Cornell *	1829
John S. Brary *	1829
John M'Comb *	1829
Henry Crary *	1845
George J. Cornell *	1845
Henry Chauncey *	1848
William Bayard Campbell *	1852
Frederick A. Conkling *	1852
Jonathan I. Coddington *	1853
James N. Cobb *	1855
Francis Cotenet *	1856
John Clapp *	1856
James Chambers *	1856
Luther Clark *	1856
Jay Cooke *	1856
Enoch W. Clark	1856
George Carpenter *	1856
John H. Contoit *	1856
William F. Carey *	1856
Samuel T. Carey *	1856
Mrs. Margaret Cheesbrough	1856
Horace B. Claflin *	1856
Edwin Clark *	1856
R. Smith Clark *	1856
Hanson K. Corning *	1856
Timothy M. Cheesman, M. D. *	1858
Henry Chauncey, Jr. *	1859
James Cassidy	1863
Israel Corse *	1864
John J. Cisco *	1868
John Caswell *	1869
Joseph H. Choate	1877
William Bayard Cutting *	1878
Charles Collins	1878
John Carey, Jr. *	1878
Herman H. Cammann	1878
John L. Cadwalader	1878
Henry W. Crane	1886

## D.

Oliver Delancey *	1771
Joshua Delaplaine *	1771
James Duane *	1771

Gerardus Duyckinck *	1771
Gerardus De Peyster *	1771
Abraham Duryee *	1771
Walter Du Bois *	1771
Elias Desbrosses *	1777
Madagalen Desbrosses *	
William Denning *	
Daniel Dunscomb, Jr.*	1795
William Duncan, ( London ) *	1809
George Duncan *	1809
R. H. John Lord Drummond *	
Frederick De Peyster *	1809
Jacob Doty *	
Patrick Dennis *	1809
David L. Dodge *	1809
James F. De Peyster *	1809
Robert G. L. De Peyster *	1811
Frederick De Peyster, Jr.*	1811
Abraham De Peyster *	1811
Matthew L. Davis *	1811
Cornelius Dubois *	1811
Rufus Davenport *	1816
Jacob Drake *	1824
John Delafield *	1829
John B. Dash *	1829
Charles Debevoise *	1829
James Donaldson *	1843
Henry C. De Rham *	1845
Franklin H. Delano	1845
George Douglas *	1856
Charles A. Davis *	1856
Henry Dwight, Jr.	1856
William E. Dodge *	1856
William W. De Forest *	1856
William Douglas *	1856
William B. Duncan	1856
Miss Susan M. C. De Peyster	1856
Mrs. Ann De Peyster	1856
Simeon Draper *	1856
Philip Dater *	1856
John H. Dykers *	1856
Cornelius Du Bois *	1856

Frederick J. De Peyster . . . . .	1863
William Dennistoun * . . . . .	1865
J. Ashton De Peyster * . . . . .	1866
Henry J. Davison * . . . . .	1871
William Alexander Duer . . . . .	1890
Henry W. de Forest . . . . .	1890
Charles D. Dickey, Jr. . . . .	1892
George G. De Witt . . . . .	1892
W. Butler Duncan . . . . .	1894
Alexander Butler Duncan . . . . .	1894

## E.

Andrew Elliot * . . . . .	1771
Lawrence Embree * . . . . .	1784
William Edgar * . . . . .	1787
Thomas Eddy * . . . . .	1793
Effingham Embree * . . . . .	1795
Thomas Ellison * . . . . .	
John Elliott * . . . . .	1811
William Edgar, Jr.* . . . . .	1818
Charles Ely * . . . . .	1856
David Eggleston . . . . .	1866
Ambrose K. Ely . . . . .	1869
Jonathan Edwards * . . . . .	1878

## F.

John Fothergill, M. D., (London)* . . . . .	1771
Walter Franklin, Sr. * . . . . .	1771
George Folliott * . . . . .	1771
Samuel Franklin * . . . . .	1782
Sampson Fleming * . . . . .	1789
George Fox * . . . . .	1795
Thomas Franklin * . . . . .	1795
Thomas Franklin, Jr.* . . . . .	1807
Col. Edward Fanning * . . . . .	
Johnson Fairholme * . . . . .	
Thomas Fisher* . . . . .	1807
Henry Franklin * . . . . .	1807
Francis Fleming * . . . . .	
Caleb Frost * . . . . .	1807
John Franklin * . . . . .	

John Franklin, Jr.*	1807
Abraham Franklin *	
Matthew Franklin *	1813
Hickson W. Field *	1813
Hamilton Fish *	
George Fitch *	1813
Moses Field *	1817
John W. Francis, M. D. *	1823
Samuel Flewelling *	1829
John Fleming *	1829
Preserved Fish *	1829
Whitehead Fish *	1829
Augustus Fleming *	1837
Samuel M. Fox *	1849
Thomas H. Faile *	1849
Benjamin H. Field *	1850
Edward G. Faile *	1856
Cyrus W. Field *	1856
John M. Furman *	1856
Henry S. Fearing *	1865
Frederick G. Foster *	1866
William H. Fogg *	1869

## G.

Peter Goelet *	1771
Hugh Gaine *	
Andrew Gautier *	
Nicholas Gouveneur *	
Robert Gray *	
Edward Goold *	
Adam Gilchrist *	
John J. Glover *	
Archibald Gracie *	
Maltbie Gelston *	1809
John Greene *	1811
Cornelius Grinnell, Jr. *	1811
George Griswold *	1811
John Greenfield *	1816
John P. Groshon *	1817
John Graham *	1823
Jonathan Goodhue *	1823

Nathaniel L. Griswold *	1823
William Green, of England *	1824
George Griffin *	1829
Peter Goelet, Jr. *	1833
Peter P. Goelet *	1833
John L. Graham *	1835
James L. Graham *	1835
Francis Griffin *	1845
John C. Green *	1845
James Gallatin *	1845
Jasper Grosvenor *	1845
Seth Grosvenor *	1845
Robert C. Goodhue *	1849
Charles C. Goodhue *	1856
John Gihon *	1856
William W. Gilbert *	1856
Edward M. Greenway *	1856
Mrs. Jonathan Goodhue *	1856
William C. Goodhue *	1856
E. Boonen Graves *	1856
Frederick C. Gebhard *	1856
William H. Gebhard *	1856
Thomas Garner *	1856
James G. Garner *	1856
Sheppard Gandy	1864
George Griswold *	1864
Mrs. E. Boonen Graves	1866
George D. H. Gillespie *	1866
Robert Gordon	1868
Elbridge T. Gerry	1868
Horace Gray	1869
Robert Livingston Gerry	1886
Peter Goelet Gerry	1886
James B. M. Grosvenor	1891

## H.

Daniel Horsemanden *	1771
Henry Haydock *	1771
Joseph Hallet *	1771
George Harrison *	1771
Whitehead Hicks *	1771
Oliver Hicks *	1809

Philip Hone *	1810
John Haggerty *	1810
William Hartshorn *	1810
John Hone *	1810
Elias Haines *	1810
Jacob Hallet *	1811
Abijah Hammond *	1811
Nathaniel Hawxhurst *	1811
Henry Haydock *	
John Hunter *	1811
David Hosack, M. D. *	1811
Benjamin Huntington *	1811
Goold Hoyt *	1811
Henry Hammond *	1811
Valentine Hicks *	1811
William Hill *	1813
Samuel Hicks *	1816
Isaac Heyer *	1816
Jacob Halsey *	1816
William Hamersly, M. D. *	1816
Alexander Eddy Hosack, M. D. *	1827
James Heard *	1827
Isaac S. Hone *	1829
John C. Hamilton *	1835
Silas Holmes	1838
William M. Halsted *	1840
George F. Hussey *	1847
Townsend Harris *	1848
Jacob Harvey *	1850
Willliam Howard *	
Edwin Hoyt *	1856
William R. Hitchcock *	1856
Charles A. Heckscher *	1856
Henry Hopkins *	1856
Edward M. Hopkins	1856
Peleg Hall *	1856
William Hoge *	1856
Thomas P. Huntington	1856
James Hewitt *	1856
David Hadden *	1856
Joshua J. Henry *	1856

William Havemeyer *	1856
Valentine G. Hall *	1856
Irad Hawley *	1856
Thomas Hunt *	1856
Wilson G. Hunt *	1856
Abram S Hewitt	1857
Edward S. Hall	1863
William J. Hoppin	1866
William B. Hoffman *	1866
Eben V. Haughwout *	1866
Samuel V. Hoffman *	1868
Meredith Howland	1873
William M. Halsted	1875
William M. Hoppin, Jr	1877
William H. Hoople	1878
James W. Husted *	1890
Anson W. Hard	1891
George G. Haven	1891

## I.

Isaac Iseline *	1816
Charles Inglis *	
Elizabeth Irving *	1862
William B. Isham	1869

## J.

John Jones, M. D. *	1771
Sir William Johnson, Baronet *	1771
Simon Johnston *	1771
Nicholas Jones *	
James Jauncey *	
Samuel Jones *	
John Jay *	
Thomas Jones *	
Col. Thomas James *	
John Jones *	1810
William Jauncey *	
Horace Johnson *	1810
Amasa Jackson *	
William Johnson *	1810
Peter A. Jay *	1813

Samuel Jones, Jr. *	1813
Joshua Jones *	
Naphthali Judah *	1813
John Jones *	1816
Edward R. Jones *	1816
Sylvanus F. Jenkins *	1816
James Jenkins *	1818
John Johnson *	1823
Jeromus Johnson *	1829
James I. Jones *	1840
Edward Jones *	1845
George F. Jones *	1852
Hezron A. Johnson *	1856
John T. Johnston *	1856
James B. Johnston *	1856
Miss Nancy Jay *	1856
Miss Mary S. Jones	1856
John Q. Jones *	1856
Bradish Johnson *	1856
Elizabeth Jones *	1863
Edward S. Jaffray *	1866
Mary H. Johnston	1863
Margaret M. Johnston	1868
D. Willis James	1872
Frederick Rhineland	1885

## K.

Archibald Kennedy *	1771
Lawrence Kortright *	1771
Peter Kettletas*	1771
John Keese*	
William Kenyon*	1810
John Knox*	
Joseph Kettletas*	1810
John Tabor Kemp*	
Robert J. Kemble*	
Isaac Kibbe*	1810
Benjamin Kissam*	
William Kelly*	
Jone Kane*	
Peter Kemble*	

James Kent*	1810
Elias Kane*	1810
John A. King*	
Joseph Kernochan*	1810
Harry Kneeland*	1829
James G. King*	1829
David S. Kennedy*	1845
Morris Ketchum*	1845
Robert Kermit*	1845
Robert Lennox Kennedy*	1845
Shepherd Knapp*	1856
Leonard W. Kipp*	1856
Richard Kipling	1856
Daniel C. Kingsland*	1856
James Lennox Kennedy*	1856
S. Nicholas Kane	1878
William M. Kingsland	1884
Samuel Keyser	1885
Edward King	1888

## L.

Robert L. Livingston*	1771
Philip Livingston *	1771
Leonard Lispenard*	1771
William Livingston*	1771
Abraham Lott*	1771
Peter Van Brug Livingston*	1771
Isaac Low*	1771
William Ludlow*	1771
Gabriel H. Ludlow*	1771
John Livingston, Sr.	1771
Jacob Leroy*	1771
John Leake*	1771
William Laight*	
John Lawrence*	
Dr. John C. Lettsom (London)*	1809
John H. Livingston, D. D.*	1809
John Leboyteux*	
Philip P. Livingston*	
Robert P. Livingston*	1809
Robert R. Livingston, Jr.*	1809

Richard R. Lawrence*	
Caleb Lawrence*	
Catherine Lawrence*	1809
Cornelius P. Low*	
Thomas Leggett*	1809
Leffert Lefferts*	
John Lamb*	
Daniel Ludlow*	
Nicholas Low*	
William Lawrence*	
John B. Lawrence*	1809
Dirk Lefferts*	
Herman Leroy*	1809
Jonathan Little*	
Richard M. Lawrence*	1809
Thomas Lawrence*	1809
John T. Lawrence*	
Edward Lyde, Jr.*	1809
William Leffingwell*	1809
Robert Lennox*	1811
Elisha Leavenworth*	
Thomas H. Legett*	1816
James Lovett*	1816
Jacob Lorillard*	1816
Joseph Lloyd*	1816
Jonathan H. Lawrence*	1816
Henry Laverty*	1816
John G. Leake*	1818
Herman LeRoy, Jr.*	1818
William Lovett*	1818
Eleazar Lord*	1824
General Lafayette*	1824
Cornelius W. Lawrence*	1824
Gulian Ludlow*	1829
David R. Lambert*	1829
David Lee*	1829
John W. Leavitt	1829
Rufus L. Lord*	1829
Edward W. Laight*	1830
Gideon Lee*	1830
William Beach Lawrence*	1830

Joseph Lawrence*	1845
Cornelius Low*	1845
Nicholas Low*	1845
George N. Lawrence	1845
Daniel Lord*	1846
James Lenox*	1846
Charles M. Leupp*	1855
Miss Jennet Lenox*	1856
Miss Henrietta A. Lenox*	1856
Peter Lorillard*	1856
James F. D. Lanier*	1856
George Law*	1856
James Lee*	1856
Mrs. Robert Livingston*	1856
George Lovett*	1856
Schuyler Livingston*	1856
Jacob R. LeRoy*	1856
Robert E. Livingston*	1863
Robert J. Livingston*	1865
Josiah O. Low	1868
George W. Lane*	1868
Herman R. LeRoy*	1875
Joseph Larocque	1878
Charles Lanier	1878
J. Bowers Lee	1878
William Libby	1882
Woodbury Langdon	1890
Newbold T. Lawrence	1892

## M.

Peter Middleton, M. D.*	1771
Roger Morris*	1771
Abraham Mortier*	1771
Abraham Mesier*	1771
Richard Morris*	1771
John Moore*	1771
William M'Adam*	1771
Nathaniel Marston*	1771
John Meyer*	1771
Charles McEvers*	1771
Alexander M'Dougall*	
John Murray, Jr.*	

Lindley Murray*	
William Maxwell*	
Robert Murray*	
John Murray*	
Alexander M'Comb*	1809
William Minturn*	
John M'Vickar*	
Benjamin G. Minturn*	1809
Robert Mott*	
John Marslin*	
Thomas Maule*	
Mary McEvers*	
Mordecai Myers*	1809
Samuel Mansfield*	
Andrew Morris*	1809
John R. Murray*	1809
James Magee*	1809
Nathaniel G. Minturn*	1809
Samuel Mott*	1809
Peter J. Munro*	1809
Peter Mesier*	1809
James McVickar*	1809
Stephen B. Munn*	1809
Jonas Minturn*	1809
John Mason*	1809
Robert I. Murray*	1809
Samuel L. Mitchell, M. D.*	1813
John B. Murray*	
Benjamin Marshall*	1816
Samuel M'Coun*	1816
John M'Comb*	1817
John Mason, Jr.*	1817
Samuel S. W. Moore, M. D.*	1817
Samuel F. Mott*	1837
Robert B. Minturn*	1845
Robert McCoskry	1845
Edwin D. Morgan*	1846
David Colden Murray*	1850
John R. Murray*	1853
Samuel Marsh*	1856
Charles H. Marshall*	1856

Matthew Morgan*	1856
Josiah Macy*	1856
William H. Macy*	1856
Francis H. Macy	1856
John H. Macy*	1856
John D. Maxwell*	1856
Miss Mary Murray*	1856
Miss Harriet Murray*	1856
Daniel S. Miller*	1856
Edward Minturn*	1856
George Merritt*	1856
William Mackay *	1856
Charles Moran	1856
Daniel E. Moran*	1856
Sidney Mason*	1858
T. Bailey Myers	1869
Harry M. Morris*	1873
George N. Miller	1878
Robert I. Murray	1878
Fordam Morris	1878
George Maculloch Miller	1878
Henry Lewis Morris	1878
William D. Morgan*	1882
William Bard McVickar	1892
J. Pierpont Morgan, Jr.	1893

## N.

William Neilson*	1809
George Newbold*	1809
John Neilson, M. D.*	1822
Russell H. Nevins*	1829
Adam Norrie*	1845
David H. Nevins*	1856
Mortimer O. H. Norton	1856
Thomas H. Newbold*	1856
William Niblo*	1856
William H. Neilson*	1873

## O.

Samuel Osgood*	
Thomas L. Ogden*	1810
David B. Ogden*	1810

Andrew Ogden*	1829
William Osborn*	1829
John Oothout*	1845
David W. C. Olyphant*	1848
David Olyphant*	1853
George Talbot Olyphant*	1853
Robert M. Olyphant	1856
William B. Ogden*	1869
William H. Osborn*	1876
Robert Olyphant	1879
Frederick P. Olcott	1887

## P.

David Provost*	1771
Thomas Pearsall*	1771
Lewis Pintard*	1771
John Pell*	
Daniel Phoenix*	
Joseph Pearsall*	1809
Edmund Prior*	1809
Stephen Price*	1809
Frederick Pigou*	1809
Thomas Pearsali*	
Frederick Phillips*	1809
Elijah Pell*	
William Post*	
Henry Post, Jr.*	1809
Benjamin Douglass Perkins*	
Jotham Post, Jr.*	1809
Allison Post*	1809
Thomas C. Pearsall*	1809
William Plyment*	
Nathaniel Prime*	1809
Isaac Pierson*	1809
Amos Palmer*	1816
Gideon Pott*	1816
Wright Post, M. D.*	
Henry Parish*	1829
J. Phillips Phœnix*	1829
Thomas W. Pearsall*	1837
Waldron B. Post*	1845

Edward Prime*	1845
Pelatiah Perit*	1856
John J. Palmer*	1856
James Phalen*	1856
Royal Phelps*	1856
Thomas Paton*	1856
Henry L. Pierson*	1856
Jehiel J. Post	1859
William H. Pomeroy	1866
Edmund Penfold*	1869
William Paton	1869
Temple Prime	1877
Henry Parish	1878
Thomas W. Pearsall*	1878
Orlando B. Potter*	1879
Henry E. Pellew	1880
Charles A. Peabody, Jr.	1891

## R.

Walter Rutherford*	1771
Isaac Roosevelt*	1771
Henry Rutgers, Jr.*	1771
Alexander Robinson*	
Cornelius Ray*	
Moses Rodgers*	
Jacobus Roosevelt*	
Elizabeth Richards*	
Henry Rutgers*	
John Reid*	
Nehemiah Rogers*	1809
William T. Robinson*	1809
Herman G. Rutgers*	
John Peter Ritter*	
Sylvester Robinson*	1809
William H. Robinson*	1809
John W. Russell*	1809
Benjamin W. Rogers*	1809
Nathaniel Richards*	1809
Jacob Radcliffe*	1809
George Richards*	1816
Henry Remsen*	1816

Philip Rhinelanders*	1818
John Rathbone, Jr.*	1823
Henry Rogers*	1823
Morris Robinson*	1823
Peter Remson*	1829
Robert Ray*	1829
William Rogers*	1829
Charles H. Russell*	1845
William J. Roome*	1845
George P. Rapelye*	1853
Guy Richards*	1855
Cornelius V. S. Roosevelt*	1856
James Robb*	1856
William C. Rhinelanders*	1856
George A. Robbins	1856
Christopher R. Robert*	1864
S. Howland Robbins	1869
Theodore Roosevelt*	1876
Alfred Roosevelt*	1878
James R. Roosevelt	1878
Robert G. Remsen	1878
Edmund D. Randolph	1884
John Harsen Rhoades	1892

## S.

William Smith*	1771
John Moran Scott*	1771
Thomas Smith*	1771
Richard Sharpe*	1771
Isaac Sears*	1771
Nicholas Stuyvesant*	1771
Gerard Stuyvesant*	
Miles Sherbrook*	
Christopher Smith*	
William Shotwell*	1809
George Stafford*	1809
Jessie Smith*	
William Seton*	
Edmund Seaman*	
Comfort Sands*	1809
William Shedden*	

Henry Sadler*	
Thomas Stoughton*	
Christopher M. Slocum*	
John Stiles*	1809
Ebenezer Stevens*	
James R. Smith*	
Reuben Smith*	1809
Peter Schermerhorn*	
Pascal N. Smith*	
James Scott*	
Jacob Schieffelin*	1809
Isaac Sebring*	1809
John Slidell*	1810
Benjamin Strong*	1810
Robert Seaman*	1811
Jessie Schofield*	1816
Jacob Storm*	1816
Ferdinand Suydam*	1816
Stephen Storm*	1816
James Sterling*	1816
Josiah Sturges*	1816
Thomas H. Smith, Jr.*	1816
Nathaniel Smith*	1817
Alexander H. Stevens, M. D.*	1817
Rev. Dr. John Stanford*	1819
Thomas R. Smith*	1820
Peter Sharpe*	1824
Garrit Storm*	1826
Peter Skinner*	1826
Benjamin L. Swan*	1827
John A. Stevens*	1827
Allan Shepherd*	1827
Jacob Sherred*	1827
Drake Seymour*	1827
Gamaliel Smith*	1829
Garrit Stephens*	1829
George W. Strong*	1829
Joseph S. Shotwell*	1829
Frederick Shelden*	1829
John Suydam*	1829
Thomas Suffern*	1829

Peter G. Stuyvesant*	1845
Peter Augustus Schermerhorn*	1845
Joseph Sampson*	1845
Jonathan Sturges*	1845
Aquilla G. Stout*	1845
Caleb Swan*	1850
Thomas B. Stillman*	1855
Robert L. Stuart*	1856
Alexander Stuart*	1856
George L. Schuyler*	1856
Melancthon L. Seymour	1856
John Fisher Sheafe*	1856
William W. Stone*	1856
Joseph Steele*	1856
John C. Stevens*	1856
Leonardo S. Suarez*	1856
William H. Smith*	1856
Edward F. Sanderson*	1856
Rutsen Suckley*	1856
Rufus R. Skeel*	1856
Horatio G. Stevens*	1856
David Stewart	1856
Gerard Stuyvesant*	1856
Mrs. William A. Spencer*	1856
Joseph Shipley, of Brandywine*	1856
Frederick Sheldon, Jr.	1857
Otis D. Swan	1858
James O. Smith, M. D.*	1858
Eleanor F. Strong	1862
Jackson S. Schultz*	1865
Benjamin B. Sherman*	1866
Francis Skiddy*	1869
Paul Spofford*	1869
George Smith	1869
James Stokes*	1869
Charles E. Strong	1877
Francis A. Stout*	1878
Mahlon Sands*	1878
Philip Schuyler	1878
John Sherwood*	1878
James O. Sheldon	1880

Charles A. Schermerhorn.....	1884
James Stillman.....	1885
James T. Swift*.....	1885
John Sloane.....	1891
J. Edward Simmons.....	1891

## T.

John Thurman*.....	1771
John Thurston*.....	
John Titus*.....	
John Townsend*.....	
Najah Taylor*.....	1809
Robert Troup*.....	1813
Jeremiah Thompson*.....	1816
Francis Thompson*.....	
Hugh K. Toler*.....	1816
Thomas C. Taylor*.....	1817
George Taylor, Jr.*.....	1817
Samuel Tuke, of the City of York* (England).....	1819
Wilson Taylor*.....	1823
Joseph R. Taylor*.....	1823
Elihu Townsend*.....	1823
Frederick A. Tracy*.....	1823
Jonathan Thompson*.....	1823
Elisha Tibbets*.....	1829
Daniel Trimble*.....	1845
George T. Trimble*.....	1845
John R. Townsend*.....	1845
Thomas Tileston*.....	1845
Merritt Trimble.....	1850
Jonathan Thorne*.....	1856
Charles N. Talbot*.....	1856
Mary B. Trimble*.....	1856
David Thompson*.....	1856
John Trenor, M. D.*.....	1856
Mrs. Cornelia Trimble*.....	1856
Edward H. Tracy*.....	1857
James H. Titus*.....	1868
Samuel Thorne.....	1876
William Turnbull*.....	1877
John P. Townsend.....	1878

Hamilton McK. Twombly.....	1887
Walter Trimble .....	1890
Richard Trimble .....	1890
Frederick D. Tappen.....	1891
William Turnbull, Jr.....	1893

## U.

William Ustick*.....	1795
William Ustick, Jr.*.....	1797
Benjamin Underhill*.....	1795
Gustaphus Upsom*.....	1795

## V.

Jacobus Van Zandt*.....	
John Van Cortlandt*.....	1771
Augustus Van Cortland*.....	1771
David Van Horn*.....	1771
Samuel Verplanck*.....	1771
Augustus Van Horne*.....	1771
Henry Van Vleck*.....	
Theodorus Van Wyck*.....	
Peter Vandervoort*.....	
James Van Varick*.....	
Gulian Verplanck*.....	
John Van Blarcom*.....	1809
Wynant Van Zandt, Jr.*.....	
William Vandervoort*.....	1811
John V. B. Varick*.....	1816
Gulian C. Verplanck*.....	1822
Myndert Van Schaick*.....	1827
William L. Vandervoort*.....	
Richard Varick*.....	1827
Hubert Van Wagenen*.....	1835
Washington R. Vermilye*.....	1856
Alexander Van Rensselaer*.....	1869
Cornelius Vanderbilt.....	1878

## W.

John Watts*.....	1771
Hugh Wallace*.....	1771
Henry White*.....	1771

Thomas White*	1771
Jacob Watson*	1771
John Weatherhead*	1771
Casper Wistar*	1771
Erasmus Williams*	
Thomas Wooldridge*	
Richard Waldron*	
William Walton*	
Gerard Walton*	
Isaac L. Winn*	1809
Robert Watts*	
Gilbert C. Willet*	1809
James Watson*	
Charles Watkins*	
William W. Woolsey*	1809
Joshua Waddington*	1809
Henry L. Wyckoff*	1809
Jacob Walton*	1809
Henry Ward*	1809
John R. Wheaton*	1809
Eliphalet Williams*	1809
Charles Wilkes*	1809
Lemuel Wells*	1809
Stephen Whitney*	1809
Ezra Weeks*	1810
Oliver Wolcott*	1813
Samuel Wood*	1813
John G. Warren*	1816
Jaspar Ward*	1816
Isaac Wright*	1816
Samuel Ward*	1816
Thomas W. Ward*	1816
Cornelius Williams*	1817
Isaac Wood, M. D.*	1818
John Watts, M. D.*	1818
A. W. V. Worey*	1818
Dr. Hugh Williamson*	
Abijah Weston*	
Joseph Walker*	1834
Samuel Ward*	1845

John Ward*	1845
Benjamin R. Winthrop*	1847
Samuel Willetts*	1850
Stephen C. Williams*	1853
John David Wolfe*	1854
Richard H. Winslow*	1856
James Winslow*	1856
Edward J. Woolsey*	1856
Eli White*	1856
Robert R. Willets*	1856
John M. Wisdom	1856
Oliver Wetmore*	1856
Augustus Wetmore*	1856
Miss Aby G. Williams	1856
Daniel T. Willetts*	1856
Benjamin M. Whitlock*	1856
John Watson*	1856
William H. Webb	1856
William Whitlock, Jr.*	1856
William E. Wilmerding*	1856
Gouverneur M. Wilkins*	1856
Christopher Wolfe*	1856
Theodorus B. Woolsey	1864
George Cabot Ward*	1865
John Earle Williams*	1869
Francis T. Walker*	1876
William H. Wickham*	1878
James T. Woodward	1883
John D. Wing	1890

Y.

Richard Yates*	
Lawrence Yates*	
Hamilton Young	

## House Physicians and House Surgeons. 1792-1894.

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William Dickson, Jr., January, 1792, January, 1793, surgeon.  
Walter Forbes, January, 1793, July, 1794, surgeon.  
Nicholas Bayard, August, 1794, March, 1795, physician.  
Nicholas Bayard, January, 1795, May, 1795, surgeon.  
Jesse Woodhull, July, 1794, January, 1795, surgeon.  
Hugh McClean, March, 1795, December, 1795, physician.  
Gilbert Smith, December, 1795, March, 1796, physician.  
Joseph Bailey, May, 1795, July, 1796, surgeon.  
John Neilson, March, 1796, May, 1797, physician.  
Robert G. Merritt, July, 1796, May, 1797, surgeon.  
Adolph Lent, May, 1797, April, 1798, physician.  
Samuel Barnum, May, 1797, June, 1799, surgeon.  
James Boyd, May, 1798, May, 1799, physician.  
J. Van Beuren, June, 1799, January, 1800, surgeon.  
Samuel Hayes, May, 1799, April, 1800, physician.  
Jacob V. Brower, January, 1800, May, 1801, surgeon.  
Henry C. Kunzie, June, 1800, August, 1801, physician.  
Richard L. Walker, May, 1801, June, 1802, surgeon.  
Nicholas Quackenboss, August, 1801, November, 1802, physician.  
Isaac Foster, June, 1802, June, 1803, surgeon.  
James D. Gallatian, November, 1802, October, 1803, physician.  
Benjamin R. Robson, June, 1803, June, 1804, surgeon.  
John Huyler, November, 1803, July, 1805, physician.  
Thomas Cock, June, 1804, June, 1805, surgeon.  
James Faitoute, May, 1805, April, 1806, physician.  
Stephen D. Beekman, June, 1805, May, 1807, surgeon.  
Samuel Akerly, April, 1806, August, 1807, physician.  
James Vose, May, 1807, September, 1807, surgeon.  
Elias Black, August, 1807, August, 1808, physician.  
Thomas Van Beuren, September, 1807, January, 1809, surgeon.  
Guy Carlton Bayley, August, 1808, August, 1809, physician.

Peter H. Cole, August, 1809, August, 1811, physician.  
Caspar Wister Eddy, February, 1810, February, 1811, surgeon.  
John C. Cheesman, February, 1811, February, 1812, surgeon.  
Peter C. Tappan, August, 1811, August, 1812, physician.  
William Van Dewsan, August, 1812, August, 1813, physician.  
James Inderwich, February, 1812, February, 1813, surgeon.  
James C. Bliss, February, 1814, February, 1815, surgeon.  
Daniel W. Kissam, August, 1813, August, 1814, physician.  
Peter B. Helme, August, 1814, August, 1815, physician.  
Isaac Wood, February, 1815, February, 1816, surgeon.  
James W. Warburton, August, 1815, August, 1816, physician.  
J. K. Rodgers, February, 1816, February, 1817, surgeon.  
Edward Delafield, August, 1816, August, 1817, physician.  
Benjamin R. Kissam, February, 1817, February, 1818, surgeon.  
J. M. Campbell, August, 1817, August, 1818, physician.  
Robert M. Sullivan, February, 1818, February, 1819, surgeon.  
James W. Pendleton, August, 1818, August, 1819, physician.  
James C. Townsend, February, 1819, February, 1820, surgeon.  
Francis U. Johnston, August, 1819, August, 1820, physician.  
Benjamin Ogden, February, 1820, February, 1821, surgeon.  
John W. Weed, August, 1820, August, 1821, physician.  
John Neilson, Jr., February, 1821, April, 1822, surgeon.  
Samuel Burrowe, August, 1821, September, 1822, physician.  
David L. Rogers, April, 1822, April, 1823, surgeon.  
Benjamin McVicker, September, 1822, September, 1823, physician.  
Marinus Willett, jr., April, 1823, April, 1824, surgeon.  
John R. Rhineland, September, 1823, September, 1824, physician.  
Frederick G. King, April, 1824, May, 1825, surgeon.  
Joseph W. Duval, September, 1824, August, 1825, physician.  
Philip E. Milledollar, May, 1825, November, 1825, surgeon.  
George Wilkes, August, 1825, February, 1826, physician.  
Amos S. Miller, November, 1825, May, 1826, surgeon.  
Isaac De Lima, May, 1826, October, 1826, surgeon.  
Alfred Wagstaff, October, 1826, May, 1827, surgeon.  
Jacob T. Guilford, November, 1826, April, 1827, physician.  
Peter D. Vroom, May, 1827, October, 1827, surgeon.  
Samuel S. Lawrence, October, 1827, April, 1828, physician.  
James E. Cornell, November, 1827, May, 1828, surgeon.  
John D. Ogden, April, 1828, October, 1828, physician.  
David A. Edgar, May, 1828, October, 1828, surgeon.

William H. Hobart, October, 1828, April 1829, physician.  
Edgar Olcott, November, 1828, May, 1829, surgeon.  
William T. Thurston, April, 1829, October, 1829, physician.  
Jared Linsly, May, 1829, November, 1829, surgeon.  
Lynde C. Ferrez, October, 1829, April, 1830, physician.  
James A. M. Gardiner, November, 1829, May, 1830, surgeon.  
Gurdon Buck, Jr., April 1830, October, 1830, physician.  
Henry A. Du Bois, October, 1830, April, 1831, physician.  
Alfred C. Post, May, 1830, November, 1830, surgeon.  
Thomas G. Swain, November, 1830, May, 1831, surgeon.  
John C. Jay, April, 1831, October, 1831, physician.  
James J. Brownlee, May, 1831, November, 1831, surgeon.  
Thomas T. Devan, October, 1831, April, 1832, physician.  
Joshua S. Felters, November, 1831, May, 1832, surgeon.  
John H. Griscom, April, 1832, October, 1832, physician.  
Austin L. Main, May, 1832, November, 1832, surgeon.  
John L. Vandervoort, October, 1832, April, 1833, physician.  
John L. Vandervoort, July, 1833, October, 1833, physician.  
John Watson, November, 1832, May, 1833, surgeon.  
George W. Leach, April, 1833, July, 1833, physician.  
John B. King, May, 1833, November, 1833, surgeon.  
Stephen Wood, October, 1833, April, 1834, physician.  
Lorenzo T. Warren, November, 1833, May, 1834, surgeon.  
Robert W. Cairnes, April, 1834, October, 1834, physician.  
Thomas Lee Smith, May, 1834, November, 1834, surgeon.  
William P. Turpin, October, 1834, April, 1835, physician.  
Abel J. Starr, November, 1834, May, 1835, surgeon.  
Thomas C. Chalmers, May, 1835, November, 1835, surgeon.  
Alonzo Clark, October, 1835, April, 1836, physician.  
Benjamin W. McCready, April, 1835, October, 1835, surgeon.  
William Jackson, May, 1835, November, 1835, surgeon.  
Nelson Shook, May, 1836, November, 1836, physician.  
Chauncey L. Mitchell, October, 1836, April, 1837, physician.  
David L. Eigenbrodt, July, 1836, November, 1836, surgeon.  
William A. Matthews, November, 1836, May, 1837, surgeon.  
Henry R. Lott, April, 1837, October, 1837, physician.  
James W. B. Greenhow, May, 1837, November, 1837, surgeon.  
Arthur B. Stout, October, 1837, April, 1838, physician.  
George Adam, November, 1836, May, 1837, surgeon.  
William M. Smith, May, 1837, November, 1837, surgeon.

William H. Maxwell, April, 1838, April, 1839, surgeon.  
John S. Heard, May, 1838, May, 1839, surgeon.  
William S. Tompkins, November, 1837, May, 1838, surgeon.  
James B. Gould, May, 1838, May, 1839, surgeon.  
William Sharrock, May, 1839, May, 1840, surgeon.  
William H. McNeven, May, 1840, May, 1841, surgeon.  
Thaddeus M. Halstead, May, 1839, May, 1840, surgeon.  
Aaron J. Henriques, March, 1839, April, 1840, physician.  
Benjamin J. Raphael, May, 1840, May, 1841, surgeon.  
E. T. Richardson, April, 1840, April, 1841, physician.  
James R. Greacen, May, 1841, May, 1842, surgeon.  
Thomas M. Markoe, May, 1841, May, 1842, surgeon.  
Peter J. McLaren, April, 1841, April, 1842, physician.  
Hugh Walsh, May, 1842, May, 1843, surgeon.  
W. P. Wanewright, May, 1842, May, 1843, surgeon.  
A. H. Wotherspoon, April, 1842, April, 1843, physician.  
Jonh Conger, May, 1843, May, 1844, surgeon.  
William W. Jones, April, 1843, May, 1844, physician.  
William W. Jones, May, 1844, May, 1845, surgeon.  
J. M. Julian, May, 1843, May, 1844, surgeon.  
Augustus G. Elliot, May, 1843, April, 1844, physician.  
Henry Cook, May, 1844, May, 1845, surgeon.  
John J. Crane, April, 1845, April, 1846, surgeon.  
Israel Moses, April, 1845, April, 1846, physician.  
Charles E. Washburn, May, 1846, February, 1847, surgeon.  
S. Allen Paddock, May, 1845, May, 1846, surgeon.  
Robert H. Little, May, 1846, May, 1847, surgeon.  
Edward H. Delafield, April, 1846, April, 1847, physician.  
George A. Peters, February, 1847, May, 1848, surgeon.  
John Thomson, June, 1847, May, 1848, surgeon.  
James Bathgate, April, 1848, May, 1849, physician.  
Henry W. Buell, May, 1848, May, 1849, surgeon.  
John B. Arden, May, 1849, April, 1850, physician.  
James R. Merritt, May, 1849, May, 1850, surgeon.  
Benjamin Vreeland, June, 1849, May, 1850, surgeon.  
Frederick D. Lente, May, 1850, May, 1851, surgeon.  
William Henry Church, May, 1850, May, 1851, surgeon.  
Frank P. Colton, April, 1850, April, 1851, physician.  
Joseph M. Cleveland, April, 1851, April, 1852, physician.  
Frederick G. Le Roy, May, 1851, May, 1852, surgeon.

Charles M. Allin, May, 1851, May, 1852, surgeon.  
Edwin Van Deusen, April, 1852, April, 1853, physician.  
George Luckley, May, 1852, May, 1853, surgeon.  
James Cooper, May, 1852, May, 1853, surgeon.  
H. Sedgewick Swift, April, 1853, April, 1854, physician.  
John McComb, May, 1853, May, 1854, surgeon.  
Cornelius R. Agnew, May, 1853, May, 1854, surgeon.  
John B. Chapin, April, 1854, September, 1854, physician.  
Edward W. Derby, May, 1854, May, 1855, surgeon.  
F. Markoe Wright, September, 1854, May, 1855, surgeon.  
Henry B. Mills, May, 1855, March, 1856, physician.  
Thomas B. Dash, May, 1855, May, 1856, surgeon.  
A. Henry Thurston, May, 1855, May, 1856, surgeon.  
Oscar F. Smith, March, 1856, December, 1856, physician.  
Menry Van Blarcom, May, 1856, December, 1856, surgeon.  
Sylvanus S. Mullford, December, 1856, August, 1857, physician.  
Henry D. Noyes, December, 1856, August, 1857, surgeon.  
George E. S. Keator, May, 1856, August, 1857, surgeon.  
John C. Du Bois, August, 1857, April, 1858, surgeon.  
Robert Ray, Jr., August, 1857, April, 1858, surgeon.  
Bradford L. B. Baylies, Jr., April, 1858, December, 1858, surgeon.  
Bartow Darrach, April, 1858, December, 1858, physician.  
John M. Hooker, April, 1858, December, 1858, surgeon.  
George F. Shradly, December, 1858, August, 1859, surgeon.  
George A. Quimby, December, 1858, August, 1859, surgeon.  
Patrick Nolan, December, 1858, August, 1859, physician.  
Clarence Cameron, August, 1859, April, 1860, physician.  
Joseph J. Hull, August, 1859, April, 1860, surgeon.  
Henry N. Fisher, August, 1859, April, 1860, surgeon.  
Samuel S. Harris, April, 1860, December, 1860, physician.  
Alexander T. Bell, April, 1860, December, 1860, surgeon.  
Robert F. Weir, April, 1860, December, 1860, surgeon.  
Robert F. Weir, December, 1860, March, 1861, physician.  
Samuel B. Tuthill, December, 1860, April, 1861, surgeon.  
Thomas B. Ward, December, 1860, April, 1861, surgeon.  
James L. Little, August, 1861, April, 1862, surgeon.  
D. B. St. John Roosa, August, 1861, April, 1862, surgeon.  
John T. Kennedy, October, 1862, August, 1863, surgeon.  
Frederick D. Sturges, October, 1862, June, 1863, surgeon.  
Normand Smith, Jr., December, 1862, August, 1863, physician.  
Frank P. Foster, August, 1863, April, 1864, surgeon.

L. de Forest Woodruff, August, 1863, April, 1864, surgeon.  
 Thomas H. White, August, 1863, April, 1864, physician.  
 William F. Cushman, April, 1864, December, 1864, surgeon.  
 George G. Wheelock, April, 1864, December, 1864, surgeon.  
 Thomas H. White, August, 1865, April, 1866, surgeon.  
 A. Brayton Ball, April, 1864, December, 1864, physician.  
 Woolsey Johnson, December, 1864, August, 1865, surgeon.  
 David Magie, Jr., December, 1864, August, 1865, surgeon.  
 James W. McLane, December, 1864, July, 1865, physician.  
 Thomas T. Sabine, August, 1865, April, 1866, surgeon.  
 John H. Emerson, July, 1865, April, 1866, physician.  
 William W. Hoppin, Jr., April, 1866, December, 1866, surgeon.  
 John F. Gignoux, April, 1866, December, 1866, surgeon.  
 William Thurman, April, 1866, December, 1866, physician.  
 Zechariah E. Lewis, December, 1866, August, 1867, surgeon.  
 Charles T. Poore, December, 1866, August, 1867, surgeon.  
 Edward C. Seguin, December, 1866, August, 1867, physician.  
 Christopher M. Bell, August, 1867, April, 1868, surgeon.  
 Chas. Washburn, August, 1867, April, 1868, surgeon.  
 Thomas Skelding, August, 1867, April, 1868, physician.  
 Stuyvesant F. Morris, April, 1868, December, 1868, surgeon.  
 William A. M. Wainwright, April, 1868, December, 1868, surgeon.  
 James Vanderpool, April, 1868, December, 1868, physician.  
 John N. Beekman, December, 1868, April, 1869, surgeon.  
 Thomas E. Satterthwaite, December, 1868, April, 1869, surgeon.  
 Albert H. Buck, December, 1868, April, 1869, physician.  
 Charles Laight, August, 1869, February, 1870, surgeon.  
 Fred F. Harral, April, 1869, August, 1869, surgeon.  
 Lucius D. Bulkley, April, 1869, August, 1869, physician.  
 \*Erastus P. Swasey, December, 1868, February, 1870, surgeon.  
 \*George A. Hathaway, December, 1868, February, 1870, physician.  
 \*Edward Frankel, December, 1868, February, 1870, physician.  
 \*Charles H. Bailey, August, 1869, February, 1870, surgeon.  
 \*William M. Hodges, August, 1869, February, 1870, physician.  
 Charles H. Knight, March, 1877, October, 1877, physician and surgeon.  
 Holt C. Wilson, October, 1877, April, 1878, physician and surgeon.

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\*Service not completed owing to closing of the hospital in February, 1870, but received from the Governors a diploma for the service rendered.

(Hospital closed from February, 1870, to March, 1877, during erection of new building on West Fifteenth street.)

Samuel S. Kahn, April, 1878, October, 1878, physician and surgeon.  
W. S. Halsted, July, 1878, October, 1878, physician.  
Royal W. Amidon, October, 1878, April, 1879, physician.  
Charles Slaughter, October, 1878, April, 1879, surgeon.  
T. R. Chambers, April, 1879, October, 1879, physician.  
G. Lee Knapp, April, 1879, October, 1879, surgeon.  
William G. Stone, October, 1879, April, 1880, physician.  
Alexander M. Fisher, October, 1879, April, 1880, surgeon.  
Frederick M. Townsend, April, 1880, December, 1880, physician.  
Frederick M. Townsend, December, 1881, June, 1882, surgeon.  
Francis H. Markoe, April, 1880, December, 1880, surgeon.  
Walter Mendelson, December, 1880, June, 1881, physician.  
George W. Leonard, December, 1880, June, 1881, surgeon.  
George M. Tuttle, June, 1881, December, 1881, physician.  
John S. Hawley, June, 1881, December, 1881, surgeon.  
Henry J. Kelly, December, 1881, June, 1882, physician.  
William G. Thompson, June, 1882, December, 1882, physician.  
John Vanderpool, June, 1882, December, 1882, surgeon.  
Alexander Duane, December, 1882, June, 1883, physician.  
Alexander Duane, December, 1883, June, 1884, surgeon.  
William A. Bartlett, December, 1882, June, 1883, surgeon.  
Henry W. Stevens, June, 1883, November, 1883, physician.  
Henry W. Stevens, June, 1884, December, 1884, surgeon.  
Robert Bowne, Jr., June, 1883, November, 1883, surgeon.  
Edwin T. Doubleday, November, 1883, June, 1884, physician.  
Edwin C. Spencer, November, 1883, June, 1884, surgeon.  
Francis E. Dwight, June, 1884, December, 1884, physician.  
Victor A. Robertson, June, 1884, December, 1884, surgeon.  
Edwin H. Norton, December, 1884, June, 1885, surgeon.  
George B. Phelps, December, 1884, June, 1885, surgeon.  
Jonathan Wright, December, 1884, June, 1885, physician.  
Frederick A. Manning, June, 1885, December, 1885, surgeon.  
James R. Hayden, June, 1885, December, 1885, surgeon.  
George R. Lockwood, July, 1885, June, 1886, physician.  
Bern B. Gallaudet, December, 1885, June, 1886, surgeon.  
William C. Deming, December, 1885, June, 1886, surgeon.  
Howard Van Rensselaer, June, 1886, December, 1886, physician.  
James W. Markoe, June, 1886, December, 1886, surgeon.  
Calvin T. Adams, June, 1886, December, 1886, surgeon.  
Walter J. Vought, December, 1886, June, 1887, physician.

- Frank K. Hallock, December, 1886, June, 1887, surgeon.  
Henry W. Hughes, December, 1886, June, 1887, surgeon.  
George A. Richards, June, 1887, December, 1887, physician.  
John L. Adams, June, 1887, December, 1887, surgeon.  
Ernest H. Lines, June, 1887, December, 1887, surgeon.  
William E. Wilson, December, 1887, June, 1888, physician.  
William E. Wilson, December, 1888, June, 1889, surgeon.  
William Gordon, December, 1887, June, 1888, surgeon.  
George E. Steel, December, 1887, June, 1888, surgeon.  
Hersey G. Locke, June, 1888, December, 1888, physician.  
Edward W. Clarke, June, 1888, December, 1888, surgeon.  
- Ellsworth Eliot, Jr., June, 1888, December, 1888, surgeon.  
Wilbur F. Martin, December, 1888, June, 1889, physician.  
Clarence W. Sheldon, December, 1888, June, 1889, surgeon.  
George H. Cobb, July, 1889, January, 1890, physician.  
John L. Buel, July, 1889, January, 1890, surgeon.  
William L. Culbert, July, 1889, January, 1890, surgeon.  
Forbes R. McCreery, January, 1890, July, 1890, physician.  
Frank P. Wilson, January, 1890, July, 1890, surgeon.  
William B. Coley, January, 1890, July, 1890, surgeon.  
Henry A. Griffin, July, 1890, January, 1891, physician.  
Harry M. Hallock, July, 1890, January, 1891, surgeon.  
William G. Schaufler, July, 1890, January, 1891, surgeon.  
Morison T. Hutchinson, January, 1891, July, 1891, physician.  
John McGrath, January, 1891, July, 1891, surgeon.  
Albert C. Stanard, January, 1891, July, 1891, surgeon.  
Lewis A. Conner, July, 1891, January, 1892, physician.  
Charles F. Adams, July, 1891, January, 1892, surgeon.  
Percy R. Bolton, July, 1891, January, 1892, surgeon.  
James Pedersen, January, 1892, July, 1892, physician.  
Elton J. Sherow, January, 1892, July, 1892, surgeon.  
Edward M. Foote, January, 1892, July, 1892, surgeon.  
Harmon A. Vedder, July, 1892, January, 1893, physician.  
John Rogers, July, 1892, January, 1893, surgeon.  
Henry S. Leake, July, 1892, January, 1893, surgeon.  
James J. Mapes, January, 1893, July, 1893, physician.  
C. Churchill Carmalt, January, 1893, July, 1893, surgeon.  
George Sherill, Jr., January, 1893, July, 1893, surgeon.  
Charles Howard Peck, July, 1893, January, 1894, physician.  
Frank Sidney Fielder, July, 1893, January, 1894, surgeon.  
Frank W. Chamberlin, July, 1893, January, 1894, surgeon.

# HOUSE SURGEONS.

1875-1894.

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Chales B. Kelsey, July 5, 1875, September 1, 1875.  
William T. Bull, September 1, 1875, September 15, 1875.  
Thomas R. Savage, September 15, 1875, December, 1876.  
Walter A. Jayne, December, 1876, March, 1877.  
Alonzo Blauvelt, March, 1877, September, 1877.  
Addison S. Diossy, September, 1877, April, 1878.  
George D. Clift, April, 1878, October, 1878.  
William Tell Kudlich, October, 1878, April, 1879.  
George W. Davis, April, 1879, October, 1879.  
Charles H. Wilkins, October, 1879, April, 1880.  
George E. Moore, April, 1880, October, 1880.  
William F. Wright, October, 1880, April, 1881.  
Andrew J. McCosh, April, 1881, October, 1881.  
Francis W. Murray, October, 1881, February, 1882.  
Allen M. Thomas, Jr., February, 1882, June, 1882.  
Charles A. Jersey, June, 1882, October, 1882.  
William H. Murray, October, 1882, February, 1883.  
Charles G. Weld, February, 1883, June, 1883.  
D. W. Montgomery, June, 1883, October, 1883.  
Mortimer V. Wilkie, October, 1883, February, 1884.  
Robert B. Jessup, February, 1884, June, 1884.  
Charles A. Powers, June, 1884, October, 1884.  
Charles S. Mack, October, 1884, February, 1885.  
Edward K. Morton, February, 1885, June, 1885.  
N. A. Kirby, June, 1885, October, 1885.  
Frank A. Hathaway, October, 1885, February, 1886.  
Paul E. Outerbridge, February, 1886, June, 1886.  
Charles M. Garrison, June, 1886, October, 1886.  
Charles R. Parke, October, 1886, February, 1887.  
Paul E. Tiemann, February, 1887, June, 1887.  
Edward B. Dench, June, 1887, October, 1887.

Lute L. Von Wedekind, October, 1887, February, 1888.

George K. Swinburn, February, 1888, June, 1888.

Paul T. Kimball, June, 1888, October, 1888.

George R. Harris, October, 1888, February, 1889.

Thomas S. Southworth, February, 1889, June, 1889.

N. Darrow Harvey, June, 1889, October, 1889.

James W. Proctor, October, 1889, February, 1890.

Carter S. Cole, February, 1890, June, 1890.

James C. Hancock, June, 1890, October, 1890.

Fred L. Wells, October, 1890, February, 1891.

Joseph R. Crofton, February, 1891, June, 1891.

John Van Rensselaer, June, 1891, October, 1891.

Joseph S. Manning, October, 1891, February, 1892.

Clayton P. Bennett, February, 1892, June, 1892.

William S. Stone, June, 1892, October, 1892.

Clinton Stevenson, October, 1892, February, 1893.

Edward Staehlin, February, 1893, June, 1893.

James B. Wood, June, 1893, July, 1893.

C. Churchill Carmalt, July, 1893, October, 1893.

William B. Brinsmade, October, 1893, February, 1894.

# Medical Superintendents and Assistant Physicians.

1821 to 1894.

	Appointed.	Resigned.
John Neilson, physician to Bloomingdale Asylum....	1821	1829
Jos. Macdonald, physician to Bloomingdale Asylum..	1829	1830
Guy C. Bayley, physician to Bloomingdale Asylum..	1830	1832
Jos. Macdonald, physician to Bloomingdale Asylum..	1832	1837
Benjamin Ogden, physician to Bloomingdale Asylum,	1837	1839
William Wilson, physician to Bloomingdale Asylum ,	1839	1844
Pliny Earle, physician to Bloomingdale Asylum.....	1844	1849
Chas. H. Nichols, physician to Bloomingdale Asylum.....	1849	1852
D. Tilden Brown, physician to Bloomingdale Asylum .....	1852	1877
Charles Corey, Jr., first assistant physician.....	1857	1865
Horace K. Wheeler, first assistant physician .....	1865	1867
Edward C. Porter, first assistant physician.....	1867	1871
Dwight R. Burrell, second assistant physician.....	1869	1871
Dwight R. Burrell, first assistant physician.....	1871	1875
William H. McDonald, second assistant physician ...	1873	1875
William H. McDonald, first assistant physician .....	1875	1879
Charles H. Nichols, medical superintendent.....	1877	*1889
William B. Goldsmith, second assistant physician....	1877	1878
Wallace J. Herriman, second assistant physician....	1878	1880
William B. Goldsmith, first assistant physician.....	1879	1880
Charles E. Woodbury, first assistant physician .....	1880	1881
Sanger Brown, second assistant physician.....	1880	1881
Sanger Brown, first assistant physician .....	1881	1886
William E. Dold, second assistant physician.....	1881	1885
William Noyes, second assistant physician.....	1885	1889

	Appointed.	Resigned.
Samuel B. Lyon, assistant medical superintendent (appointed medical superintendent).....	1886	1890
William E. Dold, first assistant physician (continues in office) .....	1886	
Henry Smith Williams, second assistant physician....	1889	1892
Samuel B. Lyon, medical superintendent (continues in office) .....	1890	
Charles E. Atwood, second assistant physician (con- tinues in office).....	1892	

# GRADUATES OF THE NEW YORK HOSPITAL TRAINING SCHOOL FOR NURSES HOLDING DIPLOMAS AND BADGES.

Year of graduation	NAME.	Present occupation.	Address.
1883	Miss E. J. Atwater.	Private nurse.	New York city.
'85	Miss M. A. Adams (Mrs. J. E. Nicholson)	At home	New York city.
'85	Miss M. Ardagh.	Superintendent	Hamot Hospital, Erie, Pa.
'87	Miss L. P. Adgate (Mrs. E. Beckwith)	At home	Pleasant Valley, N. Y.
'89	Miss M. J. Allen		Abroad.
'91	Miss F. M. Ardagh (Mrs. H. Raikes)	At home	Innessfall, Alberta, Canada.
'78	Miss J. Baker		Died September 7, 1885.
'81	Miss S. Bradley	Private nurse.	New York city.
'81	Miss E. M. Briggs (Mrs. G. T. Elliott)	At home	New York city.
'80	Mrs. A. S. Bird	Private nurse.	New York city.
'82	Miss E. Bonsall.	Private nurse.	New York city.
'83	Miss E. S. Barker (Mrs. Hunter)		Unknown.
'83	Miss C. M. Burt (Mrs. H. Porter)	At home	Minetto, N. Y.
'84	Miss J. Best.	Private nurse.	New York city.
'85	Miss A. C. Bouck (Mrs. E. S. Hoffman)	At home	Hornellsville, N. Y.
'85	Miss S. A. Black	Hospital nurse.	Smith Infirmary, Staten Island.
'86	Miss D. L. Baker.	In charge	Hospital, Norwalk, Conn.
'87	Miss A. E. Bird (Mrs. H. Forman)	Foreign missionary.	India.
'87	Mrs. M. S. Banks	Private nurse.	New York city.
'87	Miss M. Brown.	Private nurse.	New York city.
'87	Miss F. A. Brooks.	Private nurse.	New York city.
'89	Miss E. C. Beck.	Private nurse.	New York city.
'90	Miss M. E. Brown (Mrs. W. D. Van Blarcom).	At home	New York city.

'90	Miss N. Benedict.....	Private nurse.....	New York city.
'90	Miss E. Brown.....	Private nurse.....	New York city.
'90	Miss E. Bowe.....	Private nurse.....	New York city.
'91	Miss M. M. Brewster.....	District nurse.....	New York city.
'92	Miss A. S. Bridges.....	Private nurse.....	New York city.
'92	Miss H. R. Beary.....	Private nurse.....	New York city.
'80	Miss A. Cately (Mrs. H. Ettling).....	At home.....	Cortland, N. Y.
'82	Miss M. Carpenter.....	Private nurse.....	New York city.
'85	Miss M. D. Cochrane.....	.....	Devonshire, England.
'86	Miss K. M. Clarke.....	Private nurse.....	New York city.
'87	Miss E. A. Cummings (Mrs. E. D. Stetson)...	At home.....	New Bedford, Mass.
'87	Miss C. P. Covert.....	Private nurse.....	New York city.
'88	Miss M. W. Cameron.....	Private nurse.....	New York city.
'88	Miss C. T. Clarke.....	Private nurse.....	New York city.
'89	Miss L. E. Collyer.....	Matron.....	Hudson River State Hospital, Poughkeepsie, N. Y.
'90	Miss G. A. Crispell (Mrs. E. A. Tucker).....	Matron.....	Sloan Maternity Hospital, New York city.
'90	Miss H. B. Conant.....	Private nurse.....	New York city.
'91	Miss A. B. Close.....	Private nurse.....	New York city.
'91	Miss E. L. Cordes.....	Medical student.....	New York city.
'92	Miss A. A. Clarke.....	Private nurse.....	New York city.
'92	Miss F. E. Coggeshall.....	Private nurse.....	New York city.
'79	Mrs. M. E. Dilts.....	District nurse.....	New York city.
'79	Miss M. Dinwoody (Mrs. Finlayson).....	Private nurse.....	New York city.
'80	Mrs. E. J. Davenport.....	Private nurse.....	New York city.
'80	Miss P. Denniston.....	District nurse.....	New York city.
'81	Mrs. F. N. Davies (Mrs. Catto).....	.....	Unknown.
'81	Miss H. DuBois (Mrs. G. M. Bache).....	At home.....	Washington, D. C.
'82	Miss M. Davis.....	Private nurse.....	New York city.
'84	Miss R. A. Day.....	.....	Cleveland, Ohio.

## GRADUATE NURSES — (Continued).

Year of graduation.	NAME.	Present occupation.	Address.
1884	Mrs. E. J. Dascombe .....	Private nurse.....	New York city.
'86	Miss G. H. Dowie (Mrs. N. H. Korff) .....	At home.....	New York city.
'86	Miss L. K. Decker (Mrs. L. K. Lloyd) .....	.....	Unknown.
'89	Miss E. Denike .....	Private nurse.....	New York city.
'90	Miss D. Dwight.....	Hospital nurse.....	Smith Infirmary, Staten Island.
'90	Miss E. A. Davis.....	Private nurse.....	New York city.
'91	Miss N. O. Duncan (Mrs. E. Reid) .....	At home.....	Stouffville, Ontario, Canada.
'93	Miss A. B. Duncan .....	Private nurse.....	New York city.
'93	Miss H. J. Dickson.....	.....	Honolulu, H. I.
'81	Miss M. T. Eteridge (Mrs. H. H. Warden) .....	.....	Unknown.
'83	Miss C. Edmonston.....	.....	Dorchester, Mass.
'89	Miss S. G. Estelle (Mrs. W. S. Pratt) .....	At home.....	.....
'90	Mrs. E. D. Ewing.....	Private nurse.....	New York city.
'92	Miss L. H. Ellis (Mrs. P. A. Waring) .....	At home.....	Savannah, Ga.
'79	Miss H. Fitzhugh (Mrs. F. Smith) .....	.....	Bay City, Mich.
'86	Miss I. Frost .....	.....	New York city.
'87	Miss M. A. Frederick.....	Private nurse.....	New York city.
'88	Miss D. A. Fallon.....	Nurse in charge, private hos- pital.....	New York city.
'92	Miss W. Falconer (Mrs. J. A. Hart) .....	At home .....	Winnepeg, Canada.
'78	Miss M. E. Golden .....	.....	Died October, 1885.
'79	Miss M. E. Gillette (Mrs. O. N. Smith) .....	.....	Unknown.
'80	Miss E. F. Gray .....	.....	Brooklyn, N. Y.
'80	Mrs. M. L. Greer.....	Private nurse.....	New York city.

'83	Miss M. J. Garvin .....	.....	Washington, D. C.
'84	Miss J. A. Gavette .....	Private nurse .....	New York city.
'85	Miss M. S. Gorton (Mrs. W. Ritchie) .....	At home .....	Sheboygan, Wis.
'86	Miss C. Griffin .....	Private nurse .....	New York city.
'87	Miss L. Gaylord (Mrs. F. Jones) .....	At home .....	Lafayette, N. Y.
'88	Miss G. A. Goodhart (Mrs. F. Uhlenhaut, Jr.) .....	At home .....	Philadelphia, Pa.
'90	Miss N. Gillette .....	Nurse in charge .....	Norton Infirmary, Louisville, Ky.
'90	Miss J. Gahring .....	Superintendent .....	Christ Hospital, Jersey City, N. J.
'91	Miss J. Graham (Mrs. E. Slocum) .....	At home .....	Brooklyn, N. Y.
'92	Miss A. W. Goodrich .....	Matron .....	Post-Graduate Hospital, New York city.
'93	Miss L. O. Grafton .....	Private nurse .....	New York city.
'93	Miss M. M. Goodrich .....	Hospital nurse .....	New York Hospital, New York city.
'93	Miss S. L. Gladwin .....	.....	East Haddam, Conn.
'78	Mrs. E. W. Harnacker .....	At home .....	Rome, N. Y.
'78	Mrs. K. Hennessey .....	Private nurse .....	New York city.
'78	Miss A. Hodson .....	Private nurse .....	New York city.
'78	Miss I. Hodson .....	.....	Died March, 1890.
'81	Miss V. Hunter .....	Private nurse .....	New York city.
'82	Miss E. Hurd .....	Medical student .....	San Francisco, Cal.
'83	Miss M. Himrod .....	Practising physician .....	New York city.
'83	Miss E. Hodgkinson .....	.....	Died April, 1887.
'84	Miss M. A. Hutchinson .....	Principal, training school .....	Huron Street Hospital, Cleveland, Ohio.
'84	Miss S. A. Hubbard .....	Private nurse .....	New York city.
'85	Miss M. K. Howell (Mrs. W. R. Palmer) .....	At home .....	Coudersport, Pa.
'87	Miss J. E. Hatton .....	Student .....	Boston, Mass.
'87	Miss J. A. Hungerford .....	Private nurse .....	New York city.

## GRADUATE NURSES — (Continued).

Year of graduation.	NAME.	Present occupation.	Address.
1888	Miss D. Z. Hughes (Mrs. J. J. Van Horne)	Practising physician	New York city.
'88	Miss M. E. Hustler (Mrs. E. Matthews)	At home	Zanesville, Ohio.
'88	Miss C. Hampton (Mrs. W. Halsted)	At home	Baltimore, Md.
'88	Miss M. H. Hunt	Private nurse	New York city.
'89	Miss M. L. Hall	At home	Amherst, Mass.
'89	Miss L. A. Hollister	Private nurse	New York city.
'89	Miss C. M. Harned	Private nurse	New York city.
'90	Miss M. G. Harris		New York city.
'90	Miss A. Hugo (Mrs. R. A. White)	At home	New York city.
'91	Miss K. Herbert (Mrs. Percy Thompson)	At home	New York city.
'91	Miss J. E. Hitchcock		Montreal, Canada.
'92	Miss A. H. Hinchliffe		Amherst, Mass.
'92	Miss A. Henderson	Private nurse	New York city.
'92	Miss S. W. Hornby	Private nurse	New York city.
'92	Miss C. Hatch	Private nurse	New York city.
'92	Miss J. Hodson	Private nurse	New York city.
'93	Miss C. E. Horton	Private nurse	New York city.
'93	Miss E. D. Holt	Private nurse	New York city.
'90	Miss L. Ingraham (Mrs. J. F. Nichols)		Unknown.
'91	Miss H. I. Irwin	At home	Watertown, Conn.
'81	Miss J. A. C. Jackson	Private nurse	New York city.
'81	Miss K. Johnston	At home	Brandon, Vt.
'82	Miss A. F. Jones	Matron	Hospital, Westchester, N. Y.
'83	Miss M. Jackson	Medical student	Philadelphia, Pa.
		Private nurse	New York city.

'83	Miss E. Johnson	Practising physician	New York city.
'85	Miss L. V. Jones	Private nurse	St. Louis, Mo.
'85	Miss C. E. Jerome	Private nurse	Utica, N. Y.
'86	Miss H. Johnson	Private nurse	New York city.
'87	Miss E. L. James (Mrs. E. H. Lines)	At home	New York city.
'89	Miss M. Jacobs	Private nurse	New York city.
'91	Miss S. E. Johnson	Private nurse	New York city.
'83	Miss H. R. Kernohan (Mrs. W. L. Fulton)	At home	Jamaica, L. I.
'83	Miss H. L. Knudsen (Mrs. Burnet)	Practising physician	Newark, N. J.
'86	Miss S. A. Kiernan (Mrs. Zigler)	At home	New York city.
'88	Miss A. S. Kline (Mrs. H. M. Hallock)	At home	Fort McPherson, Georgia.
'93	Miss A. A. Kelly	Private nurse	New York city.
'82	Mrs. J. Lee	Private nurse	New York city.
'84	Mrs. A. McD. Leese		Died May, 1892.
'87	Miss L. E. Littell (Mrs. F. R. Randolph)	At home	Moorefield, W. Va.
'88	Miss E. Long	Private nurse	New York city.
'89	Miss G. E. N. Livingston	Lady superintendent	Montreal General Hospital, Canada.
'89	Mrs. A. M. Lawson	Superintendent	Cancer Hospital, N. Y. city.
'90	Miss K. Lasher	Private nurse	New York city.
'91	Miss R. Lamphear	Private nurse	New York city.
'93	Miss F. M. Linton	Private nurse	New York city.
'81	Miss D. T. March	Private nurse	New York city.
'81	Mrs. M. Mason		Died March 30, 1889.
'83	Miss P. Morton	Practising physician	Rochester, N. Y.
'84	Miss H. M. Mitchell	At home	Wetobuck, N. Y.
'84	Miss J. H. McVean	Private nurse	New York city.
'86	Miss C. K. A. MacMartin	Private nurse	New York city.
'87	Miss J. H. MacMartin	Private nurse	New York city.
'87	Miss K. A. Malloy	Matron	Home for Aged Men, Boston, Mass.

## GRADUATE NURSES — (Continued).

Year of graduation.	NAME.	Present occupation.	Address.
1888	Miss H. E. Macdonald.....	Private nurse.....	New York city.
'88	Miss M. A. Munn.....	Private nurse.....	New York city.
'89	Miss C. M. McLaury.....	Private nurse.....	New York city.
'89	Miss N. Mitchell.....	Private nurse.....	St. Paul, Minn.
'89	Miss M. M. Mills.....	.....	Springfield, Mass.
'89	Miss M. D. Munn.....	.....	Leyden, N. Y.
'89	Miss E. G. Manter.....	Private nurse.....	New York city.
'89	Miss M. W. Mack (Mrs. W. C. Van Antwerp).	At home.....	New York city.
'91	Miss S. F. McQuade (Mrs. R. F. McCreery).	At home.....	New York city.
'91	Miss E. E. Meyrowitz.....	.....	Died Oct. 3, 1893.
'91	Miss A. E. Monaghan.....	Private nurse.....	New York city.
'92	Miss K. Macdiarmid.....	Private nurse.....	New York city.
'92	Miss S. J. MacKenzie.....	Private nurse.....	West Arlington, N. J.
'93	Miss R. A. McKay.....	.....	Unknown.
'80	Miss L. I. Nichols.....	.....	New York city.
'81	Miss H. L. Nelden.....	.....	Died August, 1890.
'82	Miss I. Newell.....	Private nurse.....	New York city.
'88	Miss S. J. Neff.....	Private nurse.....	New York city.
'90	Miss S. M. Nelson (Mrs. R. A. Frey).....	At home.....	Paris, France.
'93	Mrs. M. L. Nuttall.....	Private nurse.....	New York city.
'78	Mrs. E. G. O'Neil.....	Clerk.....	Boston Mass.
'83	Miss M. C. Perry.....	.....	Died April, 1893.
'84	Miss L. M. Plumley (Mrs. A. Phillips).....	At home.....	Bridgeport, Conn.
'86	Miss F. G. Pryce-Jones.....	.....	Unknown.

'87	Mrs. A. L. Pomfret (Mrs. J. B. C. Phillips).	At home . . . . .	Brooklyn, N. Y.
'87	Miss M. L. Page. . . . .	Private nurse. . . . .	New York city.
'88	Mrs. E. F. Prehn . . . . .	Private nurse. . . . .	New York city.
'89	Miss S. C. Pendleton . . . . .	Private nurse. . . . .	Chicago, Ill.
'90	Miss E. Price . . . . .	Private nurse. . . . .	New York city.
'92	Miss E. M. Pearl . . . . .	Private nurse. . . . .	New York city.
'92	Mrs. M. E. Palmer . . . . .	Private nurse. . . . .	New York city.
'93	Miss E. O. Price. . . . .	Private nurse. . . . .	Richmond, Va.
'89	Miss F. Quaife . . . . .	Private nurse. . . . .	New York city.
'80	Miss J. Ritchie (Mrs. E. Bullard) . . . . .	. . . . .	Unknown.
'82	Mrs. M. L. Rorick. . . . .	Private nurse. . . . .	New York city.
'86	Miss S. F. Raymond. . . . .	. . . . .	Black Rock, Conn.
'88	Miss I. Ross . . . . .	Private nurse. . . . .	New York city.
'88	Miss K. M. Reid (Mrs. J. Duncan) . . . . .	At home. . . . .	Tottenham, Conn.
'89	Miss I. M. Root. . . . .	Private nurse. . . . .	Sherburne, N. Y.
'80	Miss I. Sutliffe . . . . .	Principal training school. . . . .	L. I. College Hospital, Brooklyn, N. Y.
'80	Miss I. H. Sutliffe . . . . .	Principal training school. . . . .	New York Hospital, New York city.
'81	Miss A. B. Stewart. . . . .	District nurse. . . . .	New York city.
'81	Miss C. P. Searcy . . . . .	Private nurse. . . . .	New York city.
'83	Miss C. N. Stevens . . . . .	Private nurse. . . . .	New York city.
'83	Miss F. M. Sutliffe. . . . .	Housekeeper. . . . .	New York Hospital, New York city.
'84	Miss C. B. Sutliffe. . . . .	Private nurse. . . . .	New York city.
'85	Miss G. M. Spratt. . . . .	Private nurse. . . . .	New York city.
'85	Miss M. D. Spratt (Mrs. W. V. Nivin) . . . .	At home . . . . .	New York city.
'85	Miss E. T. Spafford . . . . .	Private nurse. . . . .	New York city.
'85	Miss M. F. Secord. . . . .	Private nurse. . . . .	New York city.
'85	Mrs. L. Shafer. . . . .	Private nurse. . . . .	New York city.
'88	Miss A. Schneider (Mrs. C. D. Karr) . . . . .	. . . . .	Died August, 1891.

GRADUATE NURSES — ( *Continued* ).

Year of graduation.	NAME.	Present occupation.	Address.
1889	Miss E. Siegel .....	Principal training school.....	St. Luke's Hospital, St. Paul, Minn.
'89	Miss M. S. Selmer .....	Superintendent .....	Smith Infirmary, Staten Island.
'89	Miss R. H. Slocum .....	Private nurse.....	New York city.
'90	Miss M. L. Schnebley (Mrs. J. A. Clairmonte) ..	At home .....	Hackensack, N. J.
'90	Miss K. Sanborn .....	Superintendent of nursing.....	St. Vincent's Hospital, New York city.
'90	Miss E. L. Simpson .....	Private nurse.....	New York city.
'91	Miss E. R. Smillie .....	Private nurse.....	New York city.
'91	Miss M. Shalter .....	Private nurse.....	New York city.
'92	Miss B. L. Sinnott .....	Private nurse.....	New York city.
'93	Miss M. A. Samuel .....	Private nurse.....	New York city.
'93	Miss E. S. Saunders .....	Private nurse.....	New York city.
'79	Miss L. J. Tallman .....	.....	New York city.
'79	Miss E. Ticknor (Mrs. C. E. Vredenburg) ..	.....	Deceased.
'81	Miss E. F. Thrope (J. F. Durrall) .....	At home .....	Unknown.
'84	Miss A. Tietjen (Mrs. E. W. Schade) .....	At home .....	Boston, Mass.
'84	Miss M. E. Thompson (Mrs. T. Rhys Smith) ..	At home .....	New York city.
'87	Miss E. M. Thompson .....	Private nurse.....	New York city.
'87	Miss A. I. Twitchell .....	In charge .....	New York city.
			Flower Hospital, New York city.
'90	Miss A. A. Taylor .....	Private nurse.....	New York city.
'91	Miss H. M. Turner .....	Private nurse.....	New York city.
'92	Miss J. E. Tucker .....	Private nurse.....	New York city.

'92	Miss L. H. Thomas	Private nurse	New York city.
'93	Miss E. M. Turner	Private nurse	New York city.
'81	Miss A. Van Vranken (Mrs. A. Wright)	At home	Charlottesville, Va.
'81	Miss S. Van Hatton	Private nurse	New York city.
'85	Miss E. Van Zeller	Private nurse	Philadelphia, Pa.
'88	Miss K. Van Wie (Miss S. S. Jameson)	At home	Newton Centre, Mass.
'92	Miss A. Vedin	Private nurse	New York city.
'93	Miss M. A. Vreeland		Flemington, N. J.
'79	Mrs. I. Waldron		.....
'80	Miss C. S. Weeks (Mrs. C. Shaw)	At home	Mountainville, N. Y.
'81	Miss Z. E. Whitaker	Nurse in charge	Rebekah Hospital, St. Louis, Mo.
'82	Miss P. B. Washburne (Mrs. Spicer)	At home	New York city.
'82	Mrs. E. L. Warr	Superintendent, training school,	General Hospital, St. Louis, Mo.
'84	Miss H. L. White	Private nurse	New York city.
'84	Miss F. E. Wallis	Private nurse	New York city.
'85	Miss H. E. Whitehead	Private nurse	New York city.
'85	Miss E. F. Woods	Private nurse	New York city.
'85	Miss H. A. Woodruff	Private nurse	New York city.
'86	Miss M. M. Windram (Mrs. S. Pierce)	At home	New York city.
'86	Miss L. W. Westcott		Bew Bedford, Mass.
'86	Miss M. C. Wilbur (Mrs. G. H. Brown)		Los Angeles, Cal.
'86	Miss A. M. Whitmore (Mrs. T. Windram)	At home	Highland Falls, N. Y.
'87	Miss M. S. White	At home	Boston, Mass.
'88	Miss L. A. Walden	Private nurse	New York city.
'89	Miss E. Westervelt	Private nurse	Brooklyn, N. Y.
'89	Miss M. E. Whitehouse	Private nurse	New York city.
'90	Miss E. Wallace	Private nurse	New York city.
		Superintendent, training school,	Children's Hospital, San Francisco, Cal.
'90	Mrs. L. Willson	Private nurse	New York city.
'80	Miss A. L. Withington	Private nurse	New York city.
'91	Miss L. D. Wald	District nurse	New York city.

GRADUATE NURSES — ( *Concluded* ).

Year of graduation	NAME.	Present occupation.	Address.
1891	Miss M. Wheeler.....	In charge .....	Babies' Hospital, New York city.
'92	Miss C. E. C. Woodrow .....	Private nurse.....	New York city.
'92	Mrs. S. M. Weller.....	Private nurse.....	Chicago, Ill.
'93	Miss L. M. Weston.....	In charge .....	Babies' ward, Post-Graduate Hospital, New York city.
'93	Miss A. L. Witbeck .....	.....	Albany, N. Y.
'93	Miss C. Wetmore.....	.....	Englewood, N. J.
'91	Miss M. H. Young.....	Private nurse.....	New York city.
'92	Miss A. R. Young.....	Private nurse.....	New York city.





# REPORT

OF THE

## COMMISSIONERS OF STATUTORY REVISION

OF THE

### STATE OF NEW YORK.

---

TRANSMITTED TO THE LEGISLATURE JANUARY 10, 1894.

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ALBANY:

JAMES B. LYON, STATE PRINTER.

1894.



# STATE OF NEW YORK.

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No. 25.

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## IN SENATE,

JANUARY 10, 1894.

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### REPORT

OF THE

### COMMISSIONERS OF STATUTORY REVISION.

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STATE OF NEW YORK:

ALBANY, *January* 10, 1894.

*To the Legislature:*

In accordance with chapter 289 of the Laws of 1889, and section 23 of the Legislative law, we have the honor to present herewith part one of the report of the Commissioners of Statutory Revision to the Legislature of 1894.

Respectfully yours.

DANIEL MAGONE,

CHARLES A. COLLIN,

JOHN J. LINSON,

*Commissioners of Statutory Revision.*



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THE  
POLITICAL DIVISIONS LAW

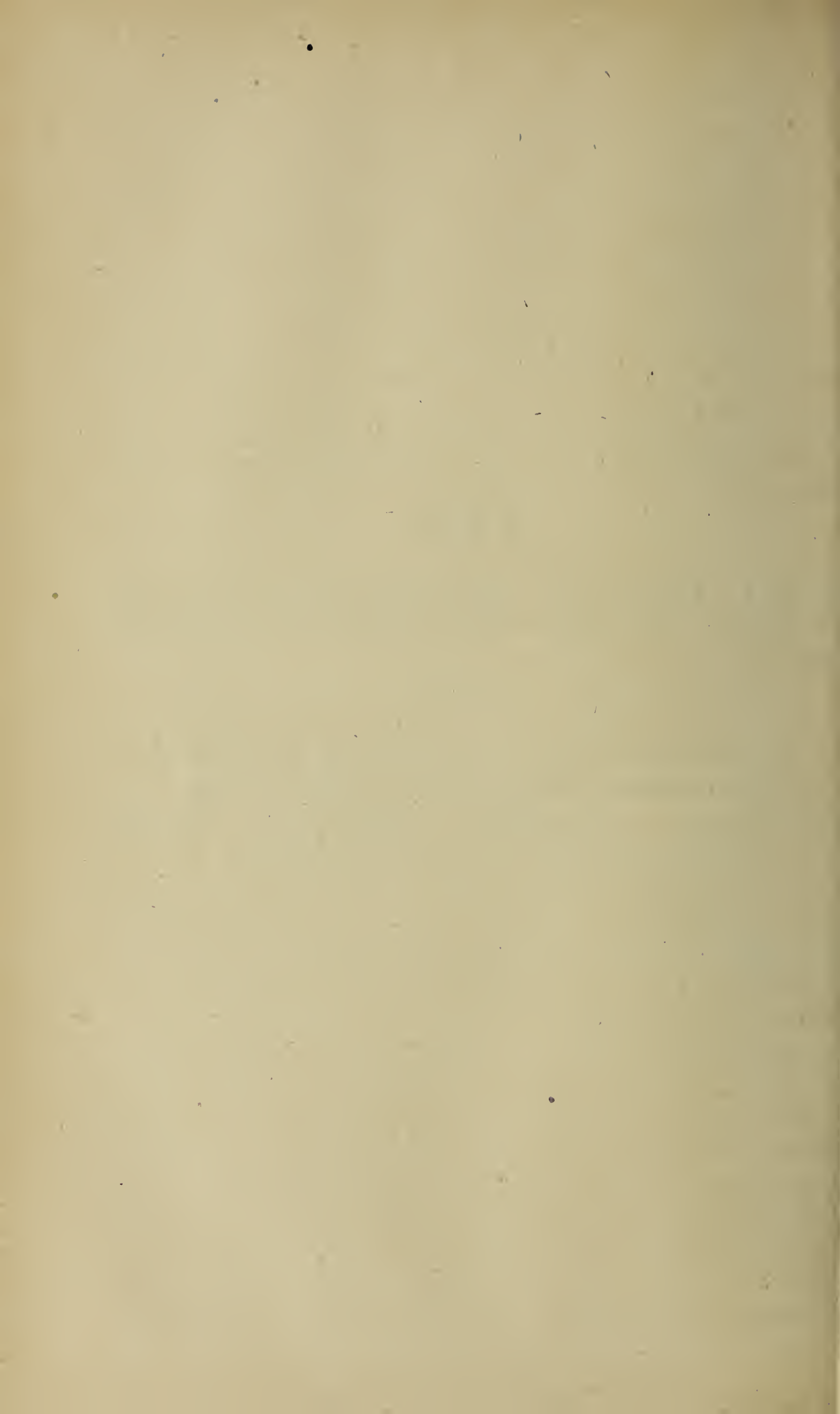
CONTAINING

- I. COMMISSIONERS' DRAFT OF THE POLITICAL DIVISIONS LAW.  
II. COMMISSIONERS' MEMORANDUM EXPLANATORY THEREOF.  
III. APPENDIX TO THE POLITICAL DIVISIONS LAW, CONTAINING  
THE LAWS PROPOSED TO BE REPEALED THEREBY.

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1893.



# THE POLITICAL DIVISIONS LAW.

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AN ACT in relation to the political divisions of the state, constituting chapter three of the general laws.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

## CHAPTER III OF THE GENERAL LAWS.

### The Political Divisions Law.

Section 1. Short title.

2. Counties.

3. Number of assemblymen for the several counties.

4. Senate districts.

5. Judicial districts.

6. Judicial departments.

7. Congressional districts.

8. Laws repealed.

9. When to take effect.

Section 1. Short title.—This chapter shall be known as the political divisions law.

**[New.]**

§ 2. Counties.—The state is divided into sixty counties, as follows: Albany, Allegany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Dutchess, Erie, Essex, Franklin, Fulton, Genesee, Greene, Hamilton, Herkimer, Jefferson, Kings, Lewis, Livingston, Madison, Monroe, Montgomery, New York, Niagara, Oneida, Onondaga, Ontario, Orange, Orleans, Oswego, Otsego, Putnam,

Queens, Rensselaer, Richmond, Rockland, Saratoga, Schenectady, Schoharie, Schuyler, Seneca, Steuben, St. Lawrence, Suffolk, Sullivan, Tioga, Tompkins, Ulster, Warren, Washington, Wayne, Westchester, Wyoming, Yates.

[R. S., part 1, ch. 2, tit. 4, §§ 1-56; R. S., 8th ed., 276-85, without change and without repeal.]

§ 3. Number of assemblymen for the several counties.—The number of members of assembly of the state to be chosen in the several counties thereof, shall be as follows:

1. One in the counties of Hamilton and Fulton.
2. One in each of the counties of Allegany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Essex, Franklin, Genesee, Greene, Herkimer, Jefferson, Lewis, Livingston, Madison, Montgomery, Niagara, Ontario, Orleans, Oswego, Putnam, Richmond, Otsego, Rockland, Saint Lawrence, Saratoga, Schenectady, Schoharie, Schuyler, Seneca, Suffolk, Sullivan, Tioga, Tompkins, Warren, Washington, Wayne, Wyoming and Yates.
3. Two in each of the counties of Dutchess, Oneida, Orange, Steuben and Ulster.
4. Three in each of the counties of Monroe, Onondaga, Queens, Rensselaer and Westchester.
5. Four in the county of Albany.
6. Six in the county of Erie.
7. Eighteen in the county of Kings.
8. Thirty in the county of New York.

[L. 1879, ch. 268, § 2; R. S., 8th ed., 288-9, L. 1892, ch. 397, § 2; R. S., 8th ed. (Supp.), 3187-8, without change of substance.]

§ 4. Senate districts.—The state is divided into thirty-two senate districts, as follows, each ward referred to being as it existed on April thirtieth, eighteen hundred and ninety-two:

First. The counties of Queens and Suffolk.

Second. The seventh, ninth, tenth, twelfth and twenty-second wards of the city of Brooklyn.

Third. The thirteenth, nineteenth, twenty-first, twenty-third and twenty-fifth wards of the city of Brooklyn.

Fourth. The fourteenth, fifteenth, sixteenth, seventeenth, eighteenth and twenty-seventh wards of the city of Brooklyn.

Fifth. The first, second, third, fourth, fifth, sixth, eleventh and twentieth wards of the city of Brooklyn.

Sixth. The eighth, twenty-fourth, twenty-sixth and twenty-eighth wards of the city of Brooklyn, the towns of Gravesend, Flatbush, Flatlands and New Utrecht, and the county of Richmond.

Seventh. The first, second, third, fifth, eighth, ninth and sixteenth wards of the city of New York, together with Bedloe's, Governor's and Ellis islands.

Eighth. The fourth, sixth, seventh, eleventh and thirteenth wards of the city of New York.

Ninth. The tenth, fourteenth, fifteenth and seventeenth wards of the city of New York.

Tenth. The eighteenth, twentieth and twenty-first wards of the city of New York.

Eleventh. That part of the twenty-second ward in the city of New York, between Fortieth street and Fifty-second street, that part of the nineteenth ward between Fortieth street and Fifty-ninth street and Blackwell's island.

Twelfth. That part of the twenty-second ward in the city of New York between Fifty-second street and Seventy-second street, and that part of the nineteenth ward between Fifty-ninth street and Seventy-second street, and such portions of Central park as may be within said limits.

Thirteenth. That part of the twenty-second ward in the city of New York north of Seventy-second street, that part of the nineteenth ward north of Seventy-second street, that part of the twelfth ward north of Eighty-sixth street, and west of Seventh avenue, and the twenty-third ward, and such portions of Central park as may be within said limits.

Fourteenth. That part of the twelfth ward in the city of New York north of Eighty-sixth street and east of Seventh avenue together with Ward's island and Randail's island.

Fifteenth. The twenty-fourth ward of the city of New York and the counties of Putnam and Westchester.

Sixteenth. The counties of Rockland, Orange and Dutchess.

Seventeenth. The counties of Sullivan, Ulster, Greene and Schoharie.

Eighteenth. The counties of Rensselaer and Columbia.

Nineteenth. The county of Albany.

Twentieth. The counties of Saratoga, Montgomery, Herkimer, and Schenectady.

Twenty-first. The counties of Essex, Clinton, Franklin, Washington, Warren, Fulton and Hamilton.

Twenty-second. The counties of Saint Lawrence, Jefferson and Oswego.

Twenty-third. The counties of Oneida, Otsego and Lewis.

Twenty-fourth. The counties of Onondaga and Madison.

Twenty-fifth. The counties of Delaware, Broome, Cortland, Chenango and Tioga.

Twenty-sixth. The counties of Cayuga, Wayne, Tompkins Ontario and Yates.

Twenty-seventh. The counties of Chemung, Schuyler, Seneca and Steuben.

Twenty-eighth. The county of Monroe.

Twenty-ninth. The counties of Niagara, Orleans, Livingston, Wyoming and Genesee.

Thirtieth. The first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, nineteenth and twentieth wards of the city of Buffalo.

Thirty-first. The fifteenth, sixteenth, seventeenth, eighteenth, twenty-first, twenty-second, twenty-third, twenty-fourth and twenty-fifth wards of the city of Buffalo, together with all that portion of Erie county lying outside of the city of Buffalo.

Thirty-second. The counties of Chautauqua, Cattaraugus and Allegany.

[R. S., pt. 1, ch. 2, tit. 11, §§ 2, 3; R. S., 8th ed., 272,

L. 1879, ch. 208, § 1; R. S., 8th ed., 272-3,

L. 1892, ch. 307, § 1; R. S., 8th ed. (Supp.), 3183-5, without change of substance.]

§ 5. Judicial districts.—The state is divided into eight judicial districts, numbered and composed of the territory, respectively, as follows:

First. The city of New York.

Second. The counties of Richmond, Suffolk, Queens, Kings, Westchester, Orange, Rockland, Putnam and Dutchess.

Third. The counties of Columbia, Sullivan, Ulster, Greene, Albany, Schoharie and Rensselaer.

Fourth. The counties of Warren, Saratoga, Washington, Essex, Franklin, Saint Lawrence, Clinton, Montgomery, Hamilton, Fulton and Schenectady.

Fifth. The counties of Onondaga, Oswego, Oneida, Herkimer, Jefferson and Lewis.

Sixth. The counties of Otsego, Delaware, Madison, Chenango, Broome, Tioga, Chemung, Tompkins, Cortland and Schuyler.

Seventh. The counties of Livingston, Wayne, Seneca, Yates, Ontario, Steuben, Monroe and Cayuga.

Eighth. The counties of Erie, Chautauqua, Cattaraugus, Orleans, Niagara, Genesee, Allegany and Wyoming.

[L. 1847, ch. 241; R. S., 8th ed., 289,  
L. 1857, ch. 485; R. S., 8th ed., 290,  
L. 1876, ch. 24; R. S., 8th ed., 290, without change of  
substance.]

§ 6. Judicial departments.—The state is divided into five judicial departments. The first department shall consist of the first judicial district; the second, of the second judicial district; the third, of the third and the fourth judicial districts; the fourth, of the fifth and sixth judicial districts; the fifth, of the seventh and eighth judicial districts.

[L. 1883, ch. 329, § 1; R. S., 8th ed., 291, first two sentences without change of substance.]

§ 7. Congressional districts.—Each congressional district shall be entitled to elect one representative in the congress of the United States, and for such purposes the state is divided into thirty-four congressional districts, as follows, each ward and

assembly district referred to being as it existed on April thirteenth, eighteen hundred and ninety-two:

First. The counties of Suffolk and Queens.

Second. The first, second, fifth, sixth, seventh, eleventh and twentieth wards of the city of Brooklyn.

Third. The fourth, third, tenth, twenty-second, ninth and twenty-third wards of the city of Brooklyn, together with the town of Flatbush.

Fourth. The twelfth, eighth, twenty-fourth, twenty-fifth and twenty-sixth wards of the city of Brooklyn, together with the towns of New Utrecht, Gravesend and Flatlands.

Fifth. The eighteenth, nineteenth, twenty-first, twenty-seventh and twenty-eighth wards of the city of Brooklyn.

Sixth. The thirteenth, fourteenth, fifteenth, sixteenth and seventeenth wards of the city of Brooklyn.

Seventh. The county of Richmond, together with the first and fifth assembly districts of the county of New York.

Eighth. The second, third and seventh assembly districts of the county of New York.

Ninth. The fourth, sixth and eighth assembly districts of the county of New York.

Tenth. The ninth, thirteenth and fifteenth assembly districts of the county of New York.

Eleventh. The tenth, twelfth and fourteenth assembly districts of the county of New York.

Twelfth. The eleventh, sixteenth and eighteenth assembly districts of the county of New York.

Thirteenth. The seventeenth and twentieth assembly districts of the county of New York, and that portion of the twenty-first assembly district below the center of Fifty-ninth street in the city of New York.

Fourteenth. The nineteenth assembly district of the county of New York, and that portion of the twenty-first assembly district between the center of Fifty-ninth street and the center of Seventy-ninth street, and that portion of the twenty-second assembly district below the center of Seventy-ninth street in the city of New York.

Fifteenth. That portion of the twenty-first assembly district between the center of Seventy-ninth street and the center of Eighty-sixth street; that portion of the twenty-second assembly district above the center of Seventy-ninth street of the city of New York, and the twenty-third assembly district of the county of New York.

Sixteenth. The twenty-fourth assembly district of the county of New York and the county of Westchester.

Seventeenth. The counties of Rockland, Orange and Sullivan.

Eighteenth. The counties of Putnam, Dutchess and Ulster.

Nineteenth. The counties of Columbia and Rensselaer.

Twentieth. The county of Albany.

Twenty-first. The counties of Greene, Schoharie, Otsego, Montgomery and Schenectady.

Twenty-second. The counties of Fulton and Hamilton, Saratoga and Saint Lawrence.

Twenty-third. The counties of Clinton, Franklin, Essex, Warren and Washington.

Twenty-fourth. The counties of Oswego, Jefferson and Lewis.

Twenty-fifth. The counties of Oneida and Herkimer.

Twenty-sixth. The counties of Delaware, Chenango, Broome, Tioga and Tompkins.

Twenty-seventh. The counties of Onondaga and Madison.

Twenty-eighth. The counties of Wayne, Cayuga, Cortland, Ontario and Yates.

Twenty-ninth. The counties of Chemung, Seneca, Schuyler and Steuben.

Thirtieth. The counties of Niagara, Livingston, Wyoming, Genesee and Orleans.

Thirty-first. The county of Monroe.

Thirty-second. The first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, nineteenth and twentieth wards of the city of Buffalo.

Thirty-third. The fifteenth, sixteenth, seventeenth, eighteenth, twenty-first, twenty-second, twenty-third, twenty-fourth and twenty-fifth wards of the city of Buffalo, and the fourth and fifth assembly districts of the county of Erie, which said fourth

assembly district includes the said twenty-fifth ward of the city of Buffalo.

Thirty-fourth. The counties of Chautauqua, Cattaraugus and Allegany.

[L. 1842, ch. 325, § 2; R. S., 8th ed., 274,  
L. 1883, ch. 424; R. S. 8th ed., 274-5,  
L. 1892, ch. 295; R. S., 8th ed. Supp. vol., 3185-7,  
without change of substance.]

§ 8. Laws repealed.—Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is repealed.

§ 9. When to take effect.—This chapter shall take effect immediately.

#### Schedule of Laws Repealed.

Revised Statutes, Part 1, Chapter 2, Titles 2, 3.

Laws of.	Chapter.	Sections.
1842.....	325.....	All.
1847.....	241.....	All.
1857.....	485.....	All.
1876.....	24.....	All.
1879.....	208.....	All.
1883.....	329.....	First 2 sentences of § 1.
1883.....	424.....	All.
1892.....	295.....	All.
1892.....	397.....	1 and 2.

# COMMISSIONERS' MEMORANDUM EXPLANATORY

## OF THE

# POLITICAL DIVISIONS LAW.

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This chapter is a proposed revision of the statutes scattered through titles 1 to 5 of chapter 2 of part 1 of the Revised Statutes and subsequent legislation closing with the apportionment acts of 1892, establishing counties, and Assembly, Senate, judicial and congressional districts, and judicial departments. Of these titles of the Revised Statutes, only titles 2 and 3 are proposed to be repealed hereby. These two titles have been superseded by the Constitution of 1846 and subsequent apportionment acts, but without specific repeal. Their repeal by this chapter, without re-enactment, will, therefore, work no change in the substance of existing law.

Titles 1, 4 and 5 of chapter 2 of part 1 comprise a list of the counties, cities and towns in the State with their boundaries. By subsequent legislation, boards of supervisors have been authorized to create new towns and change town boundaries within their respective counties. It is, therefore, impossible for the statutes to preserve, for any considerable period of time, an accurate list of the towns of the State, and the commissioners have deemed it unwise to insert any such list in the proposed revision of this chapter. Moreover, these titles are really special legislation, not properly belonging in a revision of the general laws. These three titles are the only portion of the Revised Statutes which are to be left unrepealed by the scheme of the revision proposed by the Commissioners of Statutory Revision.

The references to wards in the sections adjusting Senate, ~~Assembly~~ and Congressional districts, are made to apply to each

ward, as it existed at the date of the last apportionment act, so that no change shall be effected in such districts by reason of any change in wards subsequent to the passage of the last apportionment acts.

This chapter makes absolutely no change in the substance of existing law.

The existing laws proposed to be repealed, except such old apportionment acts as were superseded in 1892, are set forth in the appendix to this chapter, in the order in which they appear in the repealing schedule at the close of the chapter, with cross references to the corresponding sections of the revision.

## APPENDIX TO THE POLITICAL DIVISIONS LAW

CONTAINING THE

### LAWS PROPOSED TO BE REPEALED THEREBY.

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[Title 2 of chapter 2 of part 1 of the Revised Statutes consisted of three sections, and title 3 of the same chapter of one section. None of these sections have been specifically amended or repealed, but both titles have been superseded and in effect repealed by the Constitution of 1846 and the subsequent apportionment acts. It is, therefore, proposed to repeal both such titles by this chapter without re-enactment. Section one of chapter two was the apportionment of the Senate districts. Section one of title 3, being the whole of that title, was the apportionment of Congressional districts. Neither of these two sections are here reprinted.]

The following is the remainder of such title two, all of which is to be repealed, without re-enactment, and without any change in the substance of existing law.

(R. S., Part 1, Chap. 2, Title 2; R. S., 8th ed., 272.)

[Section 1 superseded by Const. of 1846, and subsequent laws.]

§ 2. At the first session after the return of every enumeration to be made of the inhabitants of the state, the senate districts are to be so altered by the legislature that each district shall contain as nearly as may be, an equal number of inhabitants, excluding aliens, paupers and persons of color not taxed.

[Superseded in effect, by Const. 1846; art. 3, § 4.]

§ 3. Each senate district is required at all times to consist of contiguous territory; and no county can be divided in the formation of a senate district.

[Modified by same section of Const.]

(Laws 1842, Chap. 325; R. S., 8th ed., 274.)

This chapter contains four sections. The first section was the Congressional apportionment act of 1842, which has been superseded by subsequent legislation without specific repeal. This

section is not here reprinted. Its repeal effects no change in the substance of existing law.

The following are sections 2, 3 and 4 of said act:

§ 2. Each district shall be entitled to elect one member.

[Re-enacted without change of substance in first sentence of section 7 of revision.]

§ 3. In the city and county of New York and in the county of Hamilton, it shall be the duty of the board of canvassers of such county to specify in their statement of the votes given for representatives in Congress, the number of votes given in each of the Congressional districts to which the several portions of said county respectively belong, together with the names of the persons for whom such votes were given, and the number of votes given for each.

[Repealed without re-enactment and without change of substance, being superseded by section 134 of the election law and by section 1902 of the New York city consolidation act.]

§ 4. In all cases where the meeting required to be held in pursuance of "An act respecting elections other than for militia and town officers," passed April fifth, eighteen hundred and forty-two, by the supervisor, assessors and town clerk of the respective towns, and by the common council of the respective cities in this state, on the first Tuesday of September instant, has not been held on that day, it shall, instead of that day, be held on the first Monday of October next; and the same adjournments, notices, appointments of inspectors of election and other proceedings may be had, under this amendment, as are required or authorized by the said act; provided that no adjournment shall extend beyond the fifteenth day of October next.

[Repealed without re-enactment and without change of substance, being temporary and obsolete.]

(Laws 1848, Chap. 241; R. S., 8th ed., 289.)

Judicial districts.—Section 1. The state is hereby divided into eight judicial districts, pursuant to the provisions of the fourth section of the sixth article of the constitution, which districts shall be arranged as follows:

First. The first judicial district shall consist of the city and county of New York.

Second. The second judicial district shall consist of the counties of Richmond, Suffolk, Queens, Kings, Westchester, Orange, Rockland, Putnam and Dutchess.

Third. The third judicial district shall consist of the counties of Columbia, Sullivan, Ulster, Greene, Albany, Schoharie and Rensselaer.

Fourth. The fourth judicial district shall consist of the counties of Warren, Saratoga, Washington, Essex, Franklin, Saint Lawrence, Clinton, Montgomery, Hamilton, Fulton and Schenectady.

Fifth. The fifth judicial district shall consist of the counties of Onondaga, Oneida, Oswego, Herkimer, Jefferson and Lewis.

Sixth. The sixth judicial district shall consist of the counties of Otsego, Delaware, Madison, Chenango, Broome, Tioga, Chemung, Tompkins and Cortland.

Seventh. The seventh judicial district shall consist of the counties of Livingston, Wayne, Seneca, Yates, Ontario, Steuben, Monroe and Cayuga.

Eighth. The eighth judicial district shall consist of the counties of Erie, Chautauqua, Cattaraugus, Orleans, Niagara, Genesee, Allegany and Wyoming.

[Re-enacted in section 5 of the revision without change of substance.]

(Laws 1857, Chap. 485; R. S., 8th ed., 290.)

Schuyler county added to sixth judicial district.—Section 1. The county of Schuyler is hereby annexed to and shall form a part of the sixth judicial district of this state.

[First sentence re-enacted in section 5 of the revision without change of substance. All after the first sentence is to be repealed without re-enactment and without change of substance, being obsolete.]

(Laws 1876, Chap. 24; R. S., 8th ed., 290.)

First judicial district altered.—Section 1. The first judicial district of the state shall consist of the city of New York, as the same has been constituted by law since the first day of January, eighteen hundred and seventy-four. The second judicial district shall consist of the counties of Richmond, Suffolk, Queens, Kings, Westchester, as the same has been constituted by law since the first day of January, eighteen hundred and seventy-four, Orange, Rockland, Putnam and Dutchess.

(Re-enacted in section 5 of revision without change of substance.)

(Laws 1883, Chap. 329, first two sentences; R. S., 8th ed., 291.)

Judicial departments; general terms to be held by justices to be designated by governor.—Section 1. The state is hereby divided into five judicial departments. The first department shall consist of the first judicial district; the second department of the second judicial district; the third department of the third and fourth judicial districts; the fourth department of the fifth and

sixth judicial districts; and the fifth department of the seventh and eighth judicial districts.

[These first two sentences of section 1 are re-enacted without change of substance in section 6 of revision.]

(Laws 1892, Chap. 295; R. S., 8th ed., Supp. Vol. 3185.)

Section 1. For the election of representatives in congress of the United States this state shall be and is hereby divided into thirty-four districts, namely:

First district. The counties of Suffolk and Queens shall compose the first district.

Second district. The first, second, fifth, sixth, seventh, eleventh, and twentieth wards of the city of Brooklyn, as now constituted, shall compose the second district.

Third district. The fourth, third, tenth, twenty-second, ninth, and twenty-third wards of the city of Brooklyn, as now constituted, together with the town of Flatbush, shall compose the third district.

Fourth district. The twelfth, eighth, twenty-fourth, twenty-fifth and twenty-sixth wards of the city of Brooklyn, as now constituted, together with the towns of New Utrecht, Gravesend and Flatlands, shall compose the fourth district.

Fifth district. The eighteenth, nineteenth, twenty-first, twenty-seventh and twenty-eighth wards of the city of Brooklyn, as now constituted, shall compose the fifth district.

Sixth district. The thirteenth, fourteenth, fifteenth, sixteenth and seventeenth wards of the city of Brooklyn, as now constituted, shall compose the sixth district.

Seventh district. The county of Richmond, together with the first and fifth assembly districts of the county of New York, shall compose the seventh district.

Eighth district. The second, third and seventh assembly districts of the county of New York shall compose the eighth district.

Ninth district. The fourth, sixth and eighth assembly districts of the county of New York shall compose the ninth district.

Tenth district. The ninth, thirteenth and fifteenth assembly districts of the county of New York shall compose the tenth district.

Eleventh district. The tenth, twelfth and fourteenth assembly districts of the county of New York shall compose the eleventh district.

Twelfth district. The eleventh, sixteenth and eighteenth assembly districts of the county of New York shall compose the twelfth district.

Thirteenth district. The seventeenth and twentieth assembly districts of the county of New York, and that portion of the

twenty-first assembly district below the center of Fifty-ninth street in the city of New York, shall compose the thirteenth district.

Fourteenth district. The nineteenth assembly district of the county of New York, that portion of the twenty-first assembly district between the center of Fifty-ninth street and the center of Seventy-ninth street, and that portion of the twenty-second assembly district below the center of Seventy-ninth street in the city of New York, shall compose the fourteenth district.

Fifteenth district. That portion of the twenty-first assembly district between the center of Seventy-ninth street and the center of Eighty-sixth street, that portion of the twenty-second district above the center of Seventy-ninth street of the city of New York, and the twenty-third assembly district of the county of New York, shall compose the fifteenth district.

Sixteenth district. The twenty-fourth assembly district of the county of New York and the county of Westchester, shall compose the sixteenth district.

Seventeenth district. The counties of Rockland, Orange and Sullivan shall compose the seventeenth district.

Eighteenth district. The counties of Putnam, Dutchess and Ulster shall compose the eighteenth district.

Nineteenth district. The counties of Columbia and Rensselaer shall compose the nineteenth district.

Twentieth district. The county of Albany shall compose the twentieth district.

Twenty-first district. The counties of Greene, Schoharie, Otsego, Montgomery and Schenectady shall compose the twenty-first district.

Twenty-second district. The counties of Fulton and Hamilton, Saratoga and Saint Lawrence, shall compose the twenty-second district.

Twenty-third district. The counties of Clinton, Franklin, Essex, Warren and Washington shall compose the twenty-third district.

Twenty-fourth district. The counties of Oswego, Jefferson and Lewis shall compose the twenty-fourth district.

Twenty-fifth district. The counties of Oneida and Herkimer shall compose the twenty-fifth district.

Twenty-sixth district. The counties of Delaware, Chenango, Broome, Tioga and Tompkins shall compose the twenty-sixth district.

Twenty-seventh district. The counties of Onondaga and Madison shall compose the twenty-seventh district.

Twenty-eighth district. The counties of Wayne, Cayuga, Cortland, Ontario and Yates shall compose the twenty-eighth district.

Twenty-ninth district. The counties of Chemung, Seneca, Schuyler and Steuben shall compose the twenty-ninth district.

Thirtieth district. The counties of Niagara, Livingston, Wyoming, Genesee and Orleans shall compose the thirtieth district.

Thirty-first district. The county of Monroe shall compose the thirty-first district.

Thirty-second district. The first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, nineteenth and twentieth wards of the city of Buffalo, as now constituted, shall compose the thirty-second district.

Thirty-third district. The fifteenth, sixteenth, seventeenth, eighteenth, twenty-first, twenty-second, twenty-third, twenty-fourth and twenty-fifth wards of the city of Buffalo, as now constituted, and the fourth and fifth assembly districts of the county of Erie, which said fourth assembly district includes the said twenty-fifth ward of the city of Buffalo, shall compose the thirty-third district.

Thirty-fourth district. The counties of Chautauqua, Cattaraugus and Allegany shall compose the thirty-fourth district.

§ 2. The words "assembly district," when used in this act, refer to assembly districts as at present constituted. Whenever the word "ward" or "wards" is used in this act it shall be understood to refer to the ward or wards as constituted at the time of the passage of this act.

[These two sections re-enacted without change of substance in section 7 of revision.]

(Laws 1892, Chap. 397; R. S., 8th ed., Supp. Vol. 3183.)

Section 1. The senate districts of this state, from and after the passage of this act, shall consist as follows:

First. The first senate district shall consist of the counties of Queens and Suffolk.

Second. The second senate district shall consist of the seventh, ninth, tenth, twelfth and twenty-second wards of the city of Brooklyn.

Third. The third senate district shall consist of the thirteenth, nineteenth, twenty-first, twenty-third and twenty-fifth wards of the city of Brooklyn.

Fourth. The fourth senate district shall consist of the fourteenth, fifteenth, sixteenth, seventeenth, eighteenth and twenty-seventh wards of the city of Brooklyn.

Fifth. The fifth senate district shall consist of the first, second, third, fourth, fifth, sixth, eleventh and twentieth wards of the city of Brooklyn.

Sixth. The sixth senate district shall consist of the eighth, twenty-fourth, twenty-sixth and twenty-eighth wards of the city of Brooklyn, the towns of Gravesend, Flatbush, Flatlands and New Utrecht, and the county of Richmond.

Seventh. The seventh senate district shall consist of the first, second, third, fifth, eighth, ninth and sixteenth wards of the city of New York, together with Bedlow's, Governor's and Ellis islands.

Eighth. The eighth senate district shall consist of the fourth, sixth, seventh, eleventh and thirteenth wards of the city of New York.

Ninth. The ninth senate district shall consist of the tenth, fourteenth, fifteenth and seventeenth wards of the city of New York.

Tenth. The tenth senate district shall consist of the eighteenth, twentieth and twenty-first wards of the city of New York.

Eleventh. The eleventh senate district shall consist of that part of the twenty-second ward in the city of New York between Fortieth street and Fifty-second street, that part of the nineteenth ward between Fortieth street and Fifty-ninth street, and Blackwell's island.

Twelfth. The twelfth senate district shall consist of that part of the twenty-second ward in the city of New York, between Fifty-second street and Seventy-second street, and that part of the nineteenth ward between Fifty-ninth street and Seventy-second street, and such portions of Central park as may be within said limits.

Thirteenth. The thirteenth senate district shall consist of that part of the twenty-second ward in the city of New York north of Seventy-second street, that part of the nineteenth ward north of Seventy-second street, that part of the twelfth ward north of Eighty-sixth street and west of Seventh avenue, and the twenty-third ward, and such portions of Central park as may be within said limits.

Fourteenth. The fourteenth senate district shall consist of that part of the twelfth ward in the city of New York north of Eighty-sixth street and east of Seventh avenue, together with Ward's island and Randall's island.

Fifteenth. The fifteenth senate district shall consist of the twenty-fourth ward of the city of New York, and the counties of Putnam and Westchester.

Sixteenth. The sixteenth senate district shall consist of the counties of Rockland, Orange and Dutchess.

Seventeenth. The seventeenth senate district shall consist of the counties of Sullivan, Ulster, Greene and Schoharie.

Eighteenth. The eighteenth senate district shall consist of the counties of Rensselaer and Columbia.

Nineteenth. The nineteenth senate district shall consist of the county of Albany.

Twentieth. The twentieth senate district shall consist of the counties of Saratoga, Montgomery, Herkimer and Schenectady.

Twenty-first. The twenty-first senate district shall consist of the counties of Essex, Clinton, Franklin, Washington, Warren, Fulton and Hamilton.

Twenty-second. The twenty-second senate district shall consist of the counties of Saint Lawrence, Jefferson and Oswego.

Twenty-third. The twenty-third senate district shall consist of the counties of Oneida, Otsego and Lewis.

Twenty-fourth. The twenty-fourth senate district shall consist of the counties of Onondaga and Madison.

Twenty-fifth. The twenty-fifth senate district shall consist of the counties of Delaware, Broome, Cortland, Chenango and Tioga.

Twenty-sixth. The twenty-sixth senate district shall consist of the counties of Cayuga, Wayne, Tompkins, Ontario and Yates.

Twenty-seventh. The twenty-seventh senate district shall consist of the counties of Chemung, Schuyler, Seneca and Steuben.

Twenty-eighth. The twenty-eighth senate district shall consist of the county of Monroe.

Twenty-ninth. The twenty-ninth senate district shall consist of the counties of Niagara, Orleans, Livingston, Wyoming and Genesee.

Thirtieth. The thirtieth senate district shall consist of the first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, nineteenth and twentieth wards of the city of Buffalo.

Thirty-first. The thirty-first senate district shall consist of the fifteenth, sixteenth, seventeenth, eighteenth, twenty-first, twenty-second, twenty-third, twenty-fourth and twenty-fifth wards of the city of Buffalo, together with all that portion of Erie county lying outside of the city of Buffalo.

Thirty-second. The thirty-second senate district shall consist of the counties of Chautauqua, Cattaraugus and Allegany. Whenever the word "ward" or "wards" is used in this act it shall be understood to refer to the ward or wards as constituted at the time of the passage of this act.

[Re-enacted without change of substance in section 4 of revision.]

§ 2. The number of members of assembly of this state hereafter to be chosen in the several counties thereof shall be as follows:

In the county of Albany, four.

In the county of Allegany, one.

In the county of Broome, one.  
In the county of Cattaraugus, one.  
In the county of Cayuga, one.  
In the county of Chautauqua, one.  
In the county of Chemung, one.  
In the county of Chenango, one.  
In the county of Clinton, one.  
In the county of Columbia, one.  
In the county of Cortland, one.  
In the county of Delaware, one.  
In the county of Dutchess, two.  
In the county of Erie, six.  
In the county of Essex, one.  
In the county of Franklin, one.  
In the counties of Fulton and Hamilton, one.  
In the county of Genesee, one.  
In the county of Greene, one.  
In the county of Herkimer, one.  
In the county of Jefferson, one.  
In the county of Kings, eighteen.  
In the county of Lewis, one.  
In the county of Livingston, one.  
In the county of Madison, one.  
In the county of Monroe, three.  
In the county of Montgomery, one.  
In the county of New York, thirty.  
In the county of Niagara, one.  
In the county of Oneida, two.  
In the county of Onondaga, three.  
In the county of Ontario, one.  
In the county of Orange, two.  
In the county of Orleans, one.  
In the county of Oswego, one.  
In the county of Otsego, one.  
In the county of Putnam, one.  
In the county of Queens, three.  
In the county of Rensselaer, three.  
In the county of Richmond, one.  
In the county of Rockland, one.  
In the county of Saint Lawrence, one.  
In the county of Saratoga, one.  
In the county of Schenectady, one.  
In the county of Schoharie, one.  
In the county of Schuyler, one.  
In the county of Seneca, one.

In the county of Steuben, two.

In the county of Suffolk, one.

In the county of Sullivan, one.

In the county of Tioga, one.

In the county of Tompkins, one.

In the county of Ulster, two.

In the county of Warren, one.

In the county of Washington, one.

In the county of Wayne, one.

In the county of Westchester, three.

In the county of Wyoming, one.

In the county of Yates, one.

**[**Re-enacted without change of substance in section 3 of revision.**]**

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T H E

JOINT STOCK ASSOCIATION LAW

CONTAINING

- I. COMMISSIONERS' DRAFT OF THE JOINT STOCK ASSOCIATION LAW.  
II. COMMISSIONERS' MEMORANDUM EXPLANATORY THEREOF.  
III. APPENDIX TO THE JOINT STOCK ASSOCIATION LAW, CONTAINING  
THE LAWS PROPOSED TO BE REPEALED THEREBY.
-



# THE JOINT STOCK ASSOCIATION LAW.

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AN ACT in relation to joint stock associations, constituting chapter forty-five of the general laws.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

## CHAPTER XLV OF THE GENERAL LAWS.

### The Joint Stock Association Law.

- Section
1. Short title.
  2. Definitions.
  3. Contents of articles of association.
  4. Certificate to be filed within sixty days and annually thereafter. Penalty. Evidence.
  5. Dissolution.
  6. Power to take and convey real property.
  7. Changing articles of association.
  8. When officer or stockholder not privileged from testifying.
  9. Laws repealed.
  10. When to take effect.

Section 1. Short title.—This chapter shall be known as the joint stock association law.

**[New in form, but no change in substance.]**

§ 2. Definitions.—As used in this chapter, the term joint stock association includes every unincorporated joint stock association, company or enterprise having written articles of association and capital stock divided into shares, but does not include a cor-

poration; and the term stockholder includes every member of such an association.

**[New in form, but no change in substance.]**

§ 3. Contents of articles of association.—The articles of association of a joint stock association may:

1. Provide that the death of a stockholder thereof or the transfer of his shares of stock therein, shall not work a dissolution of the association.

2. Prescribe the number of its directors, not less than three, to have the sole management of its affairs;

3. Contain any other provision for the management of its affairs, not inconsistent with law.

**[L. 1854, ch. 245, §§ 1-3, except last clause of § 1; R. S., 8th ed., 2088, without change in substance.]**

For last clause of section 1 of the act of 1854, see section 5 of this chapter.

Section 3 of the act of 1854, providing that such act shall not be construed to give said associations any rights and privileges as corporations, is omitted; because, first, it is inconsistent with section 1 of the same act which does give one of the privileges of a corporation, exemption from dissolution upon a member's death or transfer of his stock; second, the definition of a joint stock association in section 2 of this chapter, expressly excludes a corporation, and no rights or privileges as corporations can be acquired by this chapter except such as are conferred expressly or by fair implication.

Subdivision 3 of this section is new in form, but is merely declaratory of the common law and effects no change in substance. It is added merely to remove any possible doubt as to whether the specific authorization of certain provisions in the articles of association might not imply the exclusion of all others.]

§ 4. Certificate to be filed within sixty days and annually thereafter; penalty; evidence.—Every joint stock association transacting business within this state shall, within sixty days after its formation, and in each January thereafter, file with the secretary of state, and with the clerk of the county in which its principal business is carried on, a written certificate, signed and verified by its president and treasurer, stating the name and

date of organization of such association, the number of its stockholders, the names and places of residence of its officers, and its principal place of business. Such certificates shall be recorded in such offices respectively. Any such certificate, the record thereof, or a certified copy of such certificate or record shall be presumptive evidence of the truth of all facts therein stated, against such association, its officers and stockholders. The officers of a joint stock association who fail to comply with the provisions of this section shall be jointly and severally liable to pay to the people of this state a penalty of fifty dollars for each day such failure continues.

[L. 1885, ch. 505, §§ 1-3, 6; R. S., 8th ed., 2090, with the following changes in substance.

1. The requirement that certificate be filed within sixty days after formation, is new.

2. The requirement of section 1 of the act of 1885, that the certificate shall state the number of associates required by law and whether it has such number, is omitted as there is no general statute prescribing the number of associates, and the requirement that the certificate shall state the actual number of stockholders is inserted in place thereof.

3. The provision as to certificates being presumptive evidence of the truth of their contents as against all officers and stockholders, is new. Section 4 of the act of 1885, containing substantially the same provision, applied both to corporations and joint stock associations, and was repealed by the stock corporation law of 1890, without re-enactment as to joint stock associations. Such repeal as to joint stock associations was probably an inadvertence, as the provision is a protection to the public and creditors as against the association.

The following provisions of sections 3 and 6 of the act of 1885 are to be repealed without re-enactment, but without change in substance of existing law:

1. The amount of fees for filing and recording certificate, because already provided for by section 3304 of Code of Civil Procedure.

2. The provision that suit for penalty shall be brought in the name of the people by the Attorney-General, because section 1962 of the Code of Civil Procedure already contains a general provision to that effect.]

§ 5. Dissolution.—A joint stock association shall not be dissolved except in pursuance of its articles of association, or by

consent of all its stockholders, or by judgment of a court for fraud in its management, or for good cause shown.

[L. 1854, ch. 245, § 1, last clause; R. S., 8th ed., 2088.

Without change in substance. For the remainder of § 1 of the act of 1854, see § 4 of this chapter.]

§ 6. Power to take and convey real property.—A joint stock association in the name of its president, as such president, may purchase, take, hold and convey such real property only,

1. As may be necessary for its immediate accommodation in the convenient transaction of its business.

2. As may be mortgaged to it in good faith by way of security for loans made by or moneys due to it.

3. As it may purchase at sales under judgments, decrees or mortgages held by it.

[L. 1867, ch. 289; R. S., 8th ed., 2088.

Without change in substance.]

§ 7. Changing articles of association.—Any change in the articles of association of a joint stock association, not inconsistent with law, may be made with the consent of all its stockholders, or otherwise as the articles of association may provide. Unless the articles of association of a joint stock association contain provisions to the contrary, its directors may be increased or reduced to not less than three; its capital stock may be increased or reduced; or the term of its existence may be extended, with the consent of its stockholders owning at least two-thirds of its stock issued and outstanding, on the following terms and conditions. The consent of the requisite number of stockholders must be given by vote, or by writing presented and filed, at a regular or regularly called special meeting. Notice of the time and place of such meeting with notice of the proposed change must be personally served on each stockholder of the association at least thirty days before the meeting, or by mailing it to such stockholder at his last-known post-office address at least sixty days before the meeting. The amount of its capital stock shall not be reduced below the amount of its paid-up capital

stock, nor shall it be reduced if the liabilities of the association exceed its assets.

【This section is new, and is designed to accomplish substantially the same objects, as L. 1867, ch. 937; L. 1868, ch. 290; and L. 1881, ch. 599; R. S., 8th ed., pp. 2089-90, which have been repealed by the general corporation law and the stock corporation law of 1890. The statutes so repealed applied both to corporations and to joint stock associations, but were not re-enacted as to joint stock associations. The method of accomplishing each of the three changes in question varied, in each case, under the statutes repealed. This section reduces these variations to uniformity and therefore makes some changes in substance of the former acts, but not of a serious or radical nature.】

§ 8. When officer or stockholder not privileged from testifying.—An officer or stockholder of a joint stock association is not privileged from testifying in an action or proceeding against such association or any stockholder thereof as to its existence, the members composing it, or any fact relating to its organization.

【L. 1885, ch. 505, § 5; R. S., 8th ed., 2090.  
Without change in substance.】

§ 9. Laws repealed.—The following laws are repealed:

Of the laws of 1854, chapter 245.

Of the laws of 1867, chapter 289.

Of the laws of 1885, chapter 505.

§ 10. This act shall take effect immediately.

COMMISSIONERS' MEMORANDUM EXPLANATORY

OF THE

JOINT STOCK ASSOCIATION LAW.

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Unincorporated joint stock associations were formed in this State, by mutual agreement of the individuals composing them, before any statute was passed on the subject. By such agreement, resting solely on common-law principles, the association could lawfully provide that the death of a member, or the transfer of his stock, should not effect the dissolution of the association as would be the case with a simple partnership, and that the power to contract obligations of the association should be limited to certain specified officers or agents, so that a member could not involve the association in debt, as each member of a partnership might.

But by mere agreement of the parties in the absence of statutory authority, such an association could not acquire (1) exemption of its members from individual liability for association debts lawfully contracted, nor (2) the power to take and convey legal title to real property, in the name of the association, nor (3) the right to sue or to be sued in the association name.

So far, therefore, as the statutes have authorized (1) exemption from dissolution upon a transfer of stock by death or assignment; (2) devolution of the sole management of the affairs of the association upon its directors or officers, the statutes have merely confirmed common-law powers already existing.

The statutes have also authorized such an association to sue and be sued in the name of its president or treasurer (Code Civ. Pro., §§ 1919-24), and to take and convey legal title to real property in the name of its president. (L. 1867, ch. 289.)

These statutes, therefore, have been held to have the practical effect of conferring upon an unincorporated joint stock association, the following powers and privileges of corporations:

1. Exemption from dissolution upon transfer of stock by death or assignment, technically known as perpetual succession.

2. The inability of a member, by virtue of his membership, to contract association debts.

3. The right to take and convey legal title to real estate, without requiring all the members to appear as grantees or to join as grantors.

4. The right to sue and be sued without joining all the members as parties.

The one feature distinguishing the joint stock association from the corporation, is the individual liability of all members of a joint stock association for the association debts. This feature of the joint stock association, has never been modified in this State by statute, and can not well be modified by agreement.

The absence of this important feature of a corporation, was the reason for the decision of the Court of Appeals in the *People ex rel. Winchester v. Coleman* (1892), 133 N. Y. 279, that the National Express Company, a joint stock association, organized in 1853, was not a corporation so as to be taxable on its corporate stock, by virtue of the statute "that all monied or stock corporations deriving an income or profit from their capital or otherwise, shall be liable to taxation on their capital." *People ex rel. Platt v. Wemple* (1889), 117 N. Y. 136, decided that the United States Express Company, a joint stock association, formed in 1854, was a joint stock company or association organized under a law of this State, so as to be taxable by virtue of the statute that "every corporation, joint stock company or association whatever, now or hereafter incorporated or organized under any law of this State, shall be subject to and pay a tax, etc."

These two cases, and the cases therein cited, are sufficient authority for the propositions of law above stated.

The only changes in the substance of the law proposed by this chapter are:

- (1) The requirement in section 4 that certificates be filed within sixty days after the formation of the association, is new.

(2) The requirement of Laws 1885, chapter 505, section 1 that the certificate to be annually filed shall state "the law or statutes under which it is organized and doing business, the number of associates required thereby and whether the association comprises said number," is omitted, and in place thereof is inserted in section 4 of the proposed revision, the requirement that the certificate shall state the number of stockholders.

The reasons for this change are, that some associations were formed by common-law agreement before any statute on the subject had been passed, that no statute requires any specific number of associates, and that a statement of the actual number of the stockholders, will be of more practical value than a statement that it has the number required by law, even if a definite number were so required.

(3) Laws 1867, chapter 937; Laws 1868, chapter 290; and Laws 1881, chapter 599 (R. S., 8th ed., pp. 2089-90), which applied both to corporations and to joint stock associations, and provided for changing the number of directors, increasing or reducing the capital stock and extending the term of existence, have been repealed by the general corporation law, and by the stock corporation law of 1890, without re-enactment, so far as joint stock associations are concerned, presumably, because it was expected that the revision of the joint stock association law re-enacting such provisions would be passed at the same session. Of course, a joint stock association could, by the unanimous consent of its stockholders, make any changes in its articles of association not prohibited by law. But the statutes, so repealed, provided for changes in the three respects specified, without unanimous consent. Of course, if the articles of association provide that they shall not be changed except by unanimous consent, then a subsequent statute authorizing a change without such consent would be void as impairing the obligation of contracts.

But the commissioners believe it will be wise to re-enact substantially the provisions of the statutes so repealed, so far as they related to joint stock associations, by providing in section 7 of the proposed revision, for such changes in the articles of association on consent of the owners of two-thirds of the stock, if

the articles of association contain no provision to the contrary. Section 7 of the proposed revision is, therefore, strictly new in substance, but is really a return to provisions of law which, prior to the several corporation laws, had stood for a long time in the statute books without criticism.

Laws 1885, chapter 505, section 4 (R. S., 8th ed., 2090), provided that the certificates and records thereof shall be presumptive evidence of the truth of their contents as against the association and its members. This section applied both to corporations and joint stock associations and was repealed by the stock corporation law of 1890, without re-enactment as to joint stock associations. This was obviously an inadvertence, as the provision in question was a protection to the public as against the association.

Section 9 of the revision, while strictly new, is a re-enactment without substantial change of such repealed section 4 of the act of Laws 1885, chapter 505.

The appendix, following this chapter of the proposed revision, contains all the statutes proposed to be repealed, fully set out in the order in which they are stated in section 9 of this chapter. Cross references and notes explaining the principal changes in language, and all changes in substance, are appended to the several sections of the proposed revision and of the existing statutes set out in the appendix.

APPENDIX TO JOINT STOCK ASSOCIATION LAW

CONTAINING THE

LAWS PROPOSED TO BE REPEALED THEREBY.

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(Laws 1854, Chap. 245; R. S., 8th ed., 2088.)

No dissolution by death of shareholder.—Section 1. Whenever in pursuance of its articles of association the property of any joint-stock association is represented by shares of stock, it may be lawful for said associations to provide by their articles of association that the death of any stockholder or the assignment of his stock shall not work a dissolution of the association, but it shall continue as before, nor shall such company be dissolved except by judgment of a court for fraud in its management or other good cause to such court shown, or in pursuance of its articles of association.

Number of managers.—§ 2. Said association may also, by said articles of association, provide that the shareholders may devolve upon any three or more of the partners the sole management of their business.

Limitation of act.—§ 3. This act shall in no court be construed to give said associations any rights and privileges as corporations.

【Section 1, except the last clause, and section 2 are re-enacted without change of substance in section 3 of the revision.

The last clause of section 1 is re-enacted in section 5 of the revision.

Section 3 is not re-enacted in form, but the limiting definition of a joint-stock association in section 2 of the revision, accomplishes the same result, so that the omission to re-enact section 3 will work no change in the substance of existing law.】

(Laws 1867, Chap. 289; R. S., 8th ed., 2088.)

Purchase of real estate when allowed.—Section 1. It shall be lawful for any joint-stock company or association to purchase, hold and convey real estate for the following purposes:

1. Such as shall be necessary for its immediate accommodation in the convenient transaction of its business; or,

2. Such as shall be mortgaged to it in good faith, by way of security for loans made by or moneys due to such joint-stock company or association; or,

3. Such as it shall purchase at sales under judgments, decrees or mortgages held by such joint-stock company or association.

The said joint-stock company or association shall not purchase, hold or convey real estate in any other case or for any other purpose; and all conveyances of such real estate shall be made to the president of such joint-stock company or association, as such president, and who, and his successors, from time to time, may sell, assign and convey the same, free from any claim thereon against any of the shareholders, or any person claiming under them, or any or either of them.

[Re-enacted without change of substance in section 6 of revision.]

(Laws 1885, Chap. 505; R. S., 8th ed., 2090.)

Certificate to be filed; contents.—Section 1. Every joint-stock association transacting business within this state shall, within sixty days after this act shall take effect, file with the secretary of state, and also with the clerk of the county where the principal business of such association is carried on, a certificate, in writing, signed and sworn to by the president and treasurer of such association, stating the name of such association, the date of its organization, the law or statutes under which it is organized and doing business, the number of associates required thereby, and whether the association comprises said number, its principal places of business, and the names and places of residence of its officers.

Annually in January like certificate to be filed.—§ 2. Every association shall also annually, during the month of January in each year hereafter, file a like certificate with the secretary of state, and with the clerk of the county where the principal business of such association is carried on, stating all the facts required to be stated by the certificate referred to in the preceding section.

To be recorded; fees.—§ 3. The several certificates so filed shall be recorded by the secretary of state, and by the said county clerk, respectively, in a book or books to be provided for that purpose. The fees for recording such certificate shall be the same as are prescribed by law for the recording of deeds and other conveyances, and shall be paid by the association filing the same.

Evidence.—§ 4. (Repealed by the stock corporation law of 1890.)

Officers, etc., not privileged from testifying.—§ 5. No officer or member of any joint-stock association shall be privileged from

testifying in any suit, action or proceeding against said association, or against any of the members thereof, in respect to the existence of said association, or the members composing the same, or of any facts relating to the organization thereof.

Penalty for failure to comply with this act.—§ 6. The officers of any joint-stock association, who shall fail to comply with the provisions of this act, shall be jointly and severally liable to a fixed penalty of fifty dollars for every day during which the failure to comply with the provisions of sections one and two of this act shall continue, to be recovered in a suit brought in the name of the people of the state of New York by the attorney-general. All penalties that have accrued at the time of the commencement of such action may be recovered therein, or a separate action may be maintained for one or more of such penalties.

[Sections 1, 2, 3 and 6 are re-enacted in section 4 of the revision with such changes in substance as are indicated in the note to section 4.

Section 5 is re-enacted without change of substance in section 8 of the revision.

For re-enactment of the repealed section 4, see section 4 of the revision and note thereto.

The provision in section 3 as to amount of fees is not re-enacted because already contained in Code Civil Procedure, section 3304.

The provision in section 6 as to suit by Attorney-General is not re-enacted because already contained in Code Civil Procedure, section 1962.]

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THE  
PUBLIC LANDS LAW

CONTAINING

- I. COMMISSIONERS' DRAFT OF THE PUBLIC LANDS LAW.  
II. COMMISSIONERS' MEMORANDUM EXPLANATORY THEREOF.  
III. APPENDIX TO THE PUBLIC LANDS LAW, CONTAINING THE LAWS  
PROPOSED TO BE REPEALED THEREBY.
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COMMISSIONERS' DRAFT  
OF  
THE PUBLIC LANDS LAW.

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AN ACT in relation to the public lands, constituting chapter eleven of the general laws.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

CHAPTER XI OF THE GENERAL LAWS.

The Public Lands Law.

- Article 1. Commissioners of land office. (§§ 1--20.)  
2. Unappropriated state lands. (§§ 30--41.)  
3. Abandoned canal lands. (§§ 50--52.)  
4. Escheated lands. (§§ 60--69.)  
5. Grants of lands under water. (§§ 70--71.)  
6. Mines. (§§ 80--85.)  
7. State reservation at Niagara. (§§ 90--99.)

ARTICLE I.

Commissioners of Land Office.

- Section 1. Short title.  
2. Organization and procedure.  
3. Powers and duties; leases.  
4. Letters patent; form and contents.  
5. Refunding purchase money on failure of title.  
6. Partition of lands held by the state in joint tenancy or tenancy in common.  
7. Trespasses upon state lands.

## Section 8. Penalties for trespasses.

9. Power to investigate before grant.
10. Power to confirm defective grant.
11. Certain patents and grants ratified.
12. Grants to heirs or devisees.
13. Time of performing conditions of grant.
14. Prohibitions as to grants in Lake George.
15. Reservation of Esopus island.
16. Trespasses upon lands other than the forest preserve.
17. Payment of costs of actions directed by commissioners.
18. Payment of incumbrances on public lands.
19. Expenses chargeable to special funds.
20. Assessments for local improvements on state lands.

Section 1. Short title.—This chapter shall be known as the public lands law.

## [New.]

§ 2. Organization and procedure.—Three members of the board of commissioners of the land office, including the state engineer, or in his absence a majority of the commissioners, shall constitute a quorum. The secretary of state shall convene the commissioners as often as necessary for the transaction of business. The lieutenant-governor, or in his absence a chairman designated by the members present, shall preside at each meeting. The deputy secretary of state shall act as clerk, and enter the minutes of the proceedings in a book, to be provided for that purpose, which with the papers and documents presented to the board, shall be kept in the secretary's office in proper order. The speaker of the assembly shall be paid all expenses necessarily incurred by him in the discharge of his official duties as commissioner of the land office.

[R. S. part I, ch. 9, title 5, §§ 2, 3, 4, 8; R. S. 8th ed., 617.

The provision of § 8 as to payment of expenses of other commissioners than the speaker, repealed and not re-enacted, because unconstitutional, see Const. Art. IV, § 8, and Art. V, § 1.

No other change in substance.]

§ 3. Powers and duties; leases.—Such commissioners shall have the general care and superintendence of all state lands, the superintendence whereof is not vested in some officer or board.

The commissioners may, from time to time, lease for terms not exceeding one year, and until disposed of as required by law, all such state lands as have improvements upon them and which are not appropriated to any immediate use. Such leases shall contain proper covenants to guard against trespasses and waste.

[R. S., part I, ch. 9, tit. 5, § 1; R. S., 8th ed., 617,  
R. S., part I, ch. 9, tit. 5, § 7; R. S., 8th ed., 618,  
consolidated without change of substance.]

§ 4. Letters patent; form and contents.—All letters patent shall be in such form as the commissioners direct and contain an exception and reservation, of all gold and silver mines.

[R. S., part I ch. 9, title 5, § 5; R. S., 8th ed., 618,  
without change in substance.]

§ 5. Refunding purchase-money on failure of title.—Whenever the title of the state to lands granted under its authority fails, and a legal claim for compensation on account of such failure is preferred by any person entitled thereto, the commissioners of the land office shall direct the payment of the original purchase-moneys which may have been paid to the state by such person, with interest at the rate of six per cent from the time of such payment, to be paid out of the treasury on the warrant of the comptroller.

[R. S., part I, ch. 9, title 5, § 6; R. S., 8th ed., 618,  
without change in substance.]

§ 6. Partition of lands held by the state in joint tenancy or tenancy in common.—Whenever the state owns an undivided interest with any person in real property within this state, not a part of the forest preserve, or holds and is in possession of any such real property, as joint tenant or tenant in common with any person within this state who has an estate of freehold therein, such

person may, on obtaining the written consent of the comptroller thereto, maintain an action for the partition of such property according to the respective rights of the parties interested therein, and for a sale thereof, if it appears that actual partition can not be made without great prejudice to the owners, in the same manner as if the state were not entitled to exemption from legal proceedings, and with the same force and effect as in other cases, except that no costs against the state shall follow judgment thereon. A copy of the summons and complaint in such action shall be served upon the comptroller, who shall deliver the same to the attorney-general for proper appearance for the state. The attorney-general, when so directed by the commissioners of the land office, shall cause partition to be made of any real property held in joint tenancy or tenancy in common, in which the people of the state are interested, and for that purpose he may, in the name of the people, do all such acts as any joint tenant or tenant in common is authorized by law to do.

[L. 1883, ch. 470, § 1; R. S., 8th ed., 620,

R. S., part I, ch. IX, title 5, § 65; R. S., 8th ed., 630.

The only change consists in the omission of provisions as to forest preserve, provided for by section 105 of the Agricultural Law.]

§ 7. Trespasses upon state lands.—The commissioners of the land office may require the sheriff of any county to examine and report to them, and to the district attorney of his county, all trespasses committed upon Indian lands, or lands belonging to the state, other than the forest preserve, in such county. A district attorney, on receiving such report and whenever directed by the commissioners, shall commence and prosecute actions, in the name of the people of the state, against such trespassers; for damages and the penalties imposed by law; and, may present the complaint against such trespassers to the grand jury of his county.

[R. S., part I, ch. IX, title 5, §§ 72-73; R. S., 8th ed., 634.

The only change consists in the omission of the provisions as to forest lands, provided for in section 112 of the Agricultural Law.]

§ 8. Penalty for trespasses.—Every person who shall trespass upon any land belonging to the people of the state, by cutting or carrying away timber growing thereupon, shall, for every such offense, forfeit to the people of the state the sum of twenty-five dollars for every tree cut or carried away by him or under his direction. The district attorney shall apply all such penalties, when collected, first to the payment of the costs and expenses incurred in the prosecution of such action, including a reasonable compensation to the plaintiff's witnesses, to be certified by the court before which the trial was had, and shall pay the residue thereof into the treasury of the county.

[R. S., part I, ch. IX, title 5, §§ 74--75; R. S., 8th ed., 635, L. 1889, ch. 256; R. S., 8th ed., Supp. vol. 3199.

Section 74, as amended by L. 1889, ch. 256, applied to Indian and forest lands. Section 11 of the Indian Law covers trespasses upon Indian lands, and § 112 of the Agricultural Law (L. 1893, ch. 332) covers trespasses upon forest lands. Such provisions are, therefore, omitted from this section. No other change of substance.]

§ 9. Power to investigate before grant.—Before granting any lands or any interest therein, including lands under water, the commissioners may summarily inquire into the rights of the person applying for such grant, on such proof as, by regulation, they prescribe. They may take testimony and proofs in any matter or application before them, and the fees of witnesses and the expenses of procuring their attendance, on being certified by the commissioners, shall be paid by the treasurer on the warrant of the comptroller. They shall establish reasonable rules to guard against false or fraudulent applications and for such other purposes as they may deem proper.

[L. 1839, chap. 134; R. S., 8th ed., 619,

L. 1869, ch. 196; R. S., 8th ed., 620,

R. S., pt. I, ch. IX, title 5, § 30; R. S., 8th ed., 626,

consolidated without change of substance, except that the power to summarily inquire, is extended to cases of grants of

land under water. The provisions of L. 1839, ch. 134, relating to the issuing of subpoenas and the penalties for disobeying subpoenas are repealed, without re-enactment, because provided for by Code Civ. Pro., §§ 843, 852-69.】

§ 10. Power to confirm defective grant.—Whenever a sale is lawfully made, or directed to be made by such commissioners, including a sale of land under water, if, at the time of the adoption of the resolution to make the grant, the necessary jurisdictional facts existed to authorize the grant, and by reason of accidental omission or manifest error, the patent is not actually issued, or has been issued to the applicant deficient or manifestly erroneous in description or otherwise, such commissioners may, in their discretion, and on such terms as seem to them proper, cause to be issued to such applicant, or to persons deriving claim or title by or through conveyance from him subsequently to the passage of such resolution, a release or confirmatory grant of such lands or any parts thereof, which release or confirmatory grant shall vest in the grantee therein named such right and estate, to the extent of the right or title of the state in such lands, or parts thereof, as is therein named.

【L. 1881, ch. 605; R. S., 8th ed., 632,  
without change of substance.】

§ 11. Certain patents and grants ratified.—All patents of lands issued before July eleventh, eighteen hundred and eighty-one, pursuant to resolutions of the commissioners of the land office, and sold by them at private sale to purchasers in good faith, purporting to convey the right, title and interest of the people of this state in and to any state lands, except lands under water in the bay or harbor of New York or adjacent thereto, have been ratified and confirmed, to as full an extent as though the same had been sold at public auction, according to law, but not so as to affect any action pending July eleven, eighteen hundred and eighty-one, or to impair, release or discharge any right, claim or interest of any person in and to such lands. All grants

made by the commissioners of the land office prior to March twenty-five, eighteen hundred and forty-one, of parts of lots for which payments were made and certified in the manner prescribed by law, have been confirmed.

[L. 1881, ch. 625; R. S., 8th ed., 632,  
L. 1841, ch. 70, § 2,  
without change of substance.]

§ 12. Grants to heirs or devisees.—The heirs or devisees of any person to whom a grant of land is ordered, pursuant to law, but who dies before the issue thereof, shall be entitled to such grant, on complying with the conditions on which the grant was to have been made. If any of the purchase-money remains unpaid to the state, and if the execution of securities for the payment of such purchase-money or any part of it, is one of the conditions required of the grantee, the heirs and devisees, if of age, shall execute such securities, but if not of full age, the treasurer and comptroller shall open in their respective offices an account with them for such purchase-money, and the treasurer shall receive payments and give receipts on such accounts. When such account is paid in full, the grant shall issue to such heirs or devisees, and in case of default in the payment of the moneys due on such account, according to the condition of the grant, the commissioners may direct the state engineer to sell the land at public auction.

[R. S., part I, ch. 9, title 5, §§ 40-43; R. S., 8th ed., 627,  
without change of substance.]

§ 13. Time of performing conditions of grant.—The commissioners of the land office may, unless otherwise provided, fix a reasonable time, not less than one year, for the performance of conditions by the grantees of lands directed to be sold on the performance of conditions. A notice of the time so fixed shall be published in the state paper at least once a week for six successive weeks, and a copy of such notice shall be mailed to the persons interested, whose post-office addresses are known.

If such conditions are not performed within the time limited by such notice, the persons entitled to any benefit under such grant shall forfeit all right and title in the premises. When the time within which any condition contained in any grant of land is fixed by the terms of the grant, the commissioners of the land office may, for good cause shown before the expiration of such time, extend the time within which such condition is to be performed, not exceeding three years.

[R. S., part I, ch. 9, title 5, §§ 58-60; R. S., 8th ed., 630, without change in substance, except that last sentence is new.]

§ 14. Prohibitions as to grants in Lake George.—No grant or lease of any of the islands in Lake George, or of any land upon any of such islands, shall be made by the commissioners of the land office.

[L. 1876, ch. 297; R. S., 8th ed., 631.

The provision making void such grant unless made by express direction of the legislature is omitted as unnecessary. The words “or by any board or officer of the state,” are omitted, to avoid possible conflict with the Forest Preserve Law.]

§ 15. Reservation of Esopus island.—Esopus island, in Dutchess county, is reserved from settlement, occupancy, lease or sale, and dedicated and set apart as a public park. The commissioners of the land office shall have the same powers to protect such island from trespass, as they have over other public lands.

[L. 1882, ch. 192; R. S., 8th ed., 632,  
L. 1884, ch. 42,  
without change in substance.]

§ 16. Trespasses upon lands other than the forest preserve.—The commissioners of the land office may, from time to time, appoint discreet agents to prosecute all trespassers upon lands belonging to the state, other than the forest preserve. Each agent shall give such reasonable security, from time to time, to the people of the state for the faithful execution of his trust, as the

commissioners require and approve. He may maintain actions and proceedings, in the name of the people of the state, against all trespassers upon such lands. The costs and expenses incurred by him in any such action or proceeding, together with such compensation for services as the commissioners deem just, shall be paid to him out of the treasury; but no allowance shall be made to him for any action or proceeding, in which the defendant succeeds, unless the commissioners are satisfied that there was reasonable cause for bringing the same.

[R. S., part I, ch. IX, title 5, §§ 81-84; R. S., 8th ed., 636.

The provisions of this section are made applicable to all state lands except the forest preserve, while R. S., § 81, applies only to lands belonging to the canal fund.]

§ 17. Payment of costs of actions directed by commissioners.—Whenever actions are brought by direction of the commissioners of the land office, pursuant to law, and the plaintiffs in such actions fail to recover therein, or the defendant is unable to pay the costs adjudged against him, the comptroller may audit and settle the amount of the taxable costs in such actions, and direct the payment thereof out of the treasury to the district attorneys or other persons entitled to the same.

[L. 1836, ch. 234; R. S., 8th ed., 634,  
without change in substance.]

§ 18. Payment of incumbrances on public lands.—The commissioners of the land office, whenever they deem it for the best interests of the state, may order the treasurer, on the warrant of the comptroller, to pay off and cancel any charges, assessments or incumbrances, existing on any lands bought in by the state on the foreclosure of mortgages, to perfect in the state a title to any such lands.

[L. 1830, ch. 268, § 2; R. S., 8th ed., 618,  
without change in substance.]

§ 19. Expenses chargeable to special funds.—All expenses of surveys, appraisements or other expenses attendant on the sale

of any lands belonging to any of the special funds of the state, shall be chargeable on and paid out of the funds, respectively, to which such lands belong.

[L. 1830, ch. 268, § 3; R. S., 8th ed., 618,  
without change in substance.]

§ 20. Assessments for local improvements on state lands.—A person, body or board authorized to assess lands for local improvements or purposes, shall serve on the comptroller of the state, at least three weeks prior to the confirmation of the same, a written notice of every assessment on state lands, showing the purpose for which the assessment is made, the state lands assessed and the amounts for which they are assessed, and referring to the law authorizing the assessment, and no such assessment shall be legal unless such notice is duly served. No fee, interest, penalty or expense shall be added to or accrue on any such assessment against state lands, nor shall such lands be sold therefor; but such assessments shall, if confirmed and uncontested, be paid and discharged out of any moneys appropriated therefor. All sales of state lands for unpaid taxes or assessments for local improvements or purposes, and all sales of such lands by any municipal or village authority, whether the title thereto be derived from tax sale or otherwise, for unpaid taxes levied thereon, while such title vested in the state, are void. All assessments legally made on state lands, and all legal rents or charges thereon, shall be audited by the comptroller and paid out of the treasury.

[R. S., part I, ch. IX, title 5, § 77; R. S., 8th ed., 635,  
L. 1886, ch. 435; R. S., 8th ed., 636,  
consolidated without change in substance.]

The last sentence of R. S., 636, § 77, is omitted as unnecessary.]

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## ARTICLE II.

### Unappropriated State Lands.

Section 30. Unappropriated state lands defined.

31. Surveys by state engineer.

32. Maps.

33. Notice and place of sale.

Section 34. Payment by purchaser; certificate of purchase.

35. Issue of patent.

36. Collection, forfeiture and cancellation of purchase-money bonds.

37. Resale of lands.

38. Payment on resale.

39. Removal of occupants of land resold.

40. Application for grant under special law.

41. Right of action by holder of certificate.

§ 30. Unappropriated state lands, defined.—The term, unappropriated state lands, as used in this chapter, includes all state lands belonging to the common school fund; all escheated lands; all lands conveyed to the state for the benefit of the canal fund and not devoted in pursuance of law to any public use; all lands purchased by or for the state on the foreclosure of any mortgage given on the loan of any United States deposit funds, or on any loan of money for the state; all state lands lying within the limits of any city or village not devoted to any public use; and all other lands belonging to this state which are not directed by law to be kept for or applied to any specific purpose, except lands under water the disposition of which is governed by article five of this chapter and except lands the disposition of which is governed by the salt springs law.

[L. 1883, ch. 470, § 4; R. S., 8th ed., 621, R. S., part I, ch. 9, title 5, § 66; R. S., 8th ed., 631, consolidated without change in substance. The lands specified in § 4 of the act of 1883, were not therein designated unappropriated state lands, but the commissioners were authorized to dispose of them as such, and the same power of disposal is given by § 33 of this chapter.]

§ 31. Surveys by state engineer.—The commissioners may, whenever deemed necessary, direct the state engineer to cause actual surveys to be made of any of the unappropriated state lands. Before making such a survey, the state engineer shall obtain from the commissioners a certificate directed

to the comptroller, containing their estimate of the expenses thereof, which he shall deliver to the comptroller, and the sum at which such expenses are estimated therein shall be paid to the state engineer out of the treasury. The surveyors appointed by the state engineer to survey any unappropriated state lands for the purpose of a sale thereof, shall appraise the value of each lot, exclusive of the improvements thereupon exceeding the value of twenty-five dollars, and deliver such appraisement, with the returns of such surveys and maps of the lots surveyed, and a field book containing an account of the soil, timber and local advantages of each lot to the state engineer, who shall cause a copy to be filed in the secretary of state's office. Before making such survey and appraisement, each surveyor shall take and subscribe the constitutional oath of office, and file the same in the state engineer's office.

[R. S., part I, ch. IX, title 5, §§ 9-14; R. S., 8th ed., 621, L. 1831, ch. 61; R. S., 8th ed., 623, consolidated without change in substance.]

§ 32. Maps.—The State engineer shall make or cause to be made a map of each tract so surveyed, distinguishing upon such maps the towns and county in which the lots are situated, and deposit the same in his office, and a copy thereof in the office of the secretary of state. Such maps and copies shall be open to the inspection of every person, during the office hours of business, until the lands described thereupon be sold.

[R. S., part I, ch. IX, title 5, §§ 16-17; R. S., 8th ed., 622, without change in substance.]

§ 33. Notice and place of sale of unappropriated state lands.—The commissioners may, from time to time, direct the state engineer to sell the unappropriated state lands, not otherwise directed to be disposed of, or the sale of which is not prohibited, at public auction in such parcels as they deem for the best interests of the state and for the promotion of the settlement thereof; but not more than twenty thousand acres shall be sold at any one auction, and each lot shall be separately exposed to

sale. Previous to every sale, they shall furnish the state engineer a statement of the lowest sum at which each lot may be sold, and shall designate at least one newspaper in the county where the lands to be sold are situated, in which the state engineer shall cause notice of the time, place and conditions of sale to be published, at least once a week for at least eight weeks, successively, before the sale. All such sales shall be held in the city of Albany, unless otherwise directed by the commissioners of the land office.

[R. S., part I, ch. IX, title 5, §§ 18-19, 21-22, 50-51, 61-63, 78-79; R. S., 8th ed., 621, without change in substance.]

§ 34. Payment by purchaser; certificate of purchase.—At the time of directing each sale, the commissioners shall prescribe the proportion of purchase-money to be paid at the time of sale, taking into consideration the value and situation of the lands and timber thereupon. Such proportion of the purchase-money shall be at least twenty-five per cent. The purchaser of each lot or tract sold, shall pay to the state engineer within ten days after the sale, the first payment required thereon, and execute a bond to the people of the state conditioned for the payment of the residue of the purchase-money, in six equal annual installments with interest. In no case, shall a bond be taken or credit given for less than fifty dollars. If a purchaser refuse or neglect to make such payment or deliver such bond, he shall, for each such refusal or neglect, forfeit to the people of the state, the sum of fifty dollars. The state engineer, on the receipt of such payment and bond, shall deliver the bond to the comptroller and deliver to the purchaser a certificate, containing the name of the purchaser, a description of the land purchased, the sum paid and the sum remaining unpaid thereon. Such certificate shall not confer on the purchaser any right to cut down or destroy any kind of wood or timber standing or growing upon such land, unless such right be expressly granted therein, or unless he be entitled by virtue of the certificate to the immediate possession of such land, in which case he may, unless the certificate otherwise provide, use and apply any wood or tim-

ber upon the land, for the purposes only of erecting fences or buildings thereupon, necessary fire wood for his family, and the actual and fair improvement of such land for the purposes of cultivation.

[R. S., part I, ch. IX, title 5, §§ 20, 23-26, 30; R. S., 8th ed., 619, L. 1836, ch. 457, § 8; R. S., 8th ed., 619.

The maximum proportion of purchase-money to be paid at time of sale is omitted and the minimum is made uniform. Ten days instead of forty-eight hours is given for first payment. The commissioners have been informed that the shorter limitation has been found inconvenient in practice and contrary to the interests of the state.]

§ 35. Issue of patents.— On the production to the commissioners by the purchaser, his representatives or assigns, of the state engineer's certificate with the treasurer's receipt for the whole of the purchase-money, the comptroller shall cancel the purchaser's bond on such sale and the commissioners shall deliver letters patent for the lands sold. If such certificate be lost or wrongfully withheld by any person from the owner thereof, the commissioners may receive evidence of such loss or wrongful detention, and issue a patent to the person who, on satisfactory proof, appears to them to be the proprietor of the land described in the original certificate. If the purchaser die before a grant is issued, the commissioners may hear and determine the claims of all persons to letters patent. Whenever any person shall pay in full for any part of a lot sold by the state engineer, and such payment is certified by the comptroller according to law, the comptroller shall indorse the portion of principal so paid upon the obligation executed by the purchaser for the whole lot, and letters patent for the part so paid in full may be issued.

[R. S., part I, ch. IX, title 5, §§ 27-29; R. S., 8th ed., 618, L. 1841, ch. 70; R. S., 8th ed., 620, consolidated without change in substance.]

§ 36. Collection, forfeiture and cancellation of purchase-money bonds.— The commissioners of the land office may direct the comptroller to sue upon any bond received by the state engineer on the sale of unappropriated state lands, if any payment stipu-

lated in such bond shall remain due one year, or they may direct the state engineer to resell the land for the payment of which such bond was given, and in case of such sale, all previous payments made on account of such land shall be forfeited to the people of the state, and the bonds may be delivered up and canceled on the surrender of the certificates of sale.

[R. S., part I, ch. 9, title 5, §§ 46, 56; R. S., 8th ed., 628, without change in substance.]

§ 37. Resale of lands.—The state engineer, whenever he resells any such lot, shall include in the amount for which such lot is offered for sale, the sum unpaid at the time of such sale for principal and interest on the purchase-moneys thereof, the amount due on the books in the comptroller's office for taxes and the interest and charges thereon, and the costs of such sale. If the total amount of such charges be not bid therefor, he shall purchase the same for the state at such amount. If on any such sale, the state engineer becomes the purchaser in behalf of the state, the commissioners of the land office shall direct, whether the land purchased be offered for sale by him at the price for which it was purchased, or a new appraisement made thereof under his direction. He may sell such lots to any person applying to purchase the same, for the amount at which the same was purchased for the state, on the like terms and conditions as he is authorized to sell the unappropriated state lands. If the commissioners of the land office direct a new appraisal of such lands, the state engineer may sell the same as prescribed in this section for the prices at which the lots are respectively appraised.

[R. S., part I, ch. 9, title 5, §§ 47-49, 57; R. S., 8th ed., 628, L. 1875, ch. 72.

The provisions of R. S., 628, § 48, giving a preference to the last owner on the resale, are omitted.

The provisions of the R. S., allowing a certain period for redemption, are omitted. The omitted provisions serve no useful purpose and complicate the procedure. One year's grace is allowed purchasers in default and this seems sufficient.]

§ 38. Payment on resale.—The purchaser shall complete the sale, immediately, by paying into the treasury the amount due on the land and receiving a patent, or by executing a proper bond and receiving a new certificate of the sale.

[L. 1836, ch. 457, § 6; R. S., 8th ed., 619.

The three months allowed for redemption is omitted, for the reasons given in the foot note to the last preceding section.]

§ 39. Removal of occupants of land resold.—When a resale of land is directed, the commissioners of the land office shall cause notice to be given to every occupant of such land to remove therefrom, and if he does not comply with such notice, they shall direct the district attorney of the county in which such lands may be situated to commence proceedings for his removal before the county judge of such county. On proof, by the production of a certificate from the clerk of the commissioners of the land office, that a resale of such land has been duly ordered for default of payment, such judge shall issue his warrant to the sheriff of the county, commanding him, within ten days after the receipt thereof, to remove such occupant from such lands; and the sheriff shall remove such person within such time, and, for that purpose, shall possess the same powers as in the execution of criminal process. The sheriff shall retain such warrant in his hands, and if any person so removed shall return to occupy such lands without the consent of the state engineer, he shall be forthwith removed by the sheriff pursuant to such warrant. The sheriff, for executing a warrant under this section, shall be allowed such compensation, to be paid out of the treasury, as the comptroller shall certify to be reasonable.

[R. S., part I, ch. IX, title 5, §§ 52--55; R. S., 8th ed., 629.

No change in substance except that the penal provision of R. S., 629, § 54, is omitted to be inserted in the Penal Code, and not to be repealed by this chapter, and the provision of § 55 giving a fee to the county judge is omitted as unconstitutional. See Const., Art. VI, § 21.]

§ 40. Application for grant under special law.—The commissioners of the land office shall not grant any of the unappropriated

state lands to any person applying therefor by virtue of a special law, unless such application be made within one year after the passage of such law, unless otherwise provided therein, but such land shall be sold in the manner directed for the sale of unappropriated state lands.

[R. S., part I, ch. IX, title 5, §§ 44, 45; R. S., 8th ed., 627, without change in substance.]

§ 41. Right of action by holder of certificate.—Any person having the state engineer's certificate of sale may, on obtaining the consent of the commissioners of the land office, and on such terms as they prescribe, bring and maintain an action for any injury done to such lands after the date of such certificate. The assignee of such certificate may have the like remedy for any injury done after such assignment.

[L. 1829, ch. 261; R. S., 8th ed., 631, without change of substance.]

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### ARTICLE III.

#### Abandoned Canal Lands.

Section 50. Sale of abandoned canal lands.

51. Preference to original owner.

52. Release of land acquired without consideration.

§ 50. Sale of abandoned canal lands.—The commissioners of the land office may sell and convey the right, title and interest of the state in any real property, acquired for canal purposes, which the canal board, by resolution, determine to have been abandoned for such purposes, including any real property, which, at the time it was taken for canal purposes, was owned by the state, and was thereafter conveyed by the state with adjoining lands without express reservation of the part covered by the canal, other than abandoned canals, sold and conveyed by the state prior to April 27, 1869, and, other than dry docks within the canal blue lines in the city of Oswego, built by permission of the state. If such property is used at the time of such abandonment as a

hydraulic canal, such conveyance shall not prevent the future use thereof for that purpose, but shall expressly reserve the right to continue the same. The proceeds of such sales shall be credited to the fund appropriated for the construction, improvement and repair of the canals.

[L. 1883, ch. 470, § 4; R. S., 8th ed., 621,  
L. 1857, ch. 267, § 1; R. S., 8th ed., 693,  
L. 1869, ch. 361; R. S., 8th ed., 693,  
consolidated without change of substance.]

§ 51. Preference to original owner.—The original owner of such real property from whom the same was acquired by the state by purchase, or his heirs or assigns, being the owner or owners of adjoining lands, shall have preference, for one year after the passage of such resolution, to purchase the same, by payment of the amount originally paid therefor by the state.

[L. 1857, ch. 267, § 1; R. S., 8th ed., 693,  
without change of substance.]

§ 52. Release of land acquired without consideration.—If the state acquired title to any such real property, by grant or otherwise, from the owner, without the payment of any consideration therefor, the commissioners may release to the person from whom the same was acquired, or his heirs or assigns, all the right, title and interest of the state in and to such real property, to be held subject to such rules, regulations and requirements as the commissioners deem for the best interest of the state.

[L. 1857, ch. 267, § 1; R. S., 8th ed., 693,  
without change of substance.]

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#### ARTICLE IV.

##### Escheated Lands.

Section 60. Persons entitled to petition for release.

61. Proceedings on receipt of petition.

62. Conveyance to petitioner.

63. Effect of deed on rights of others.

Section 64. Protest; notice of hearing petition.

65. Disposition of moneys received; annual report.

66. Lands held under written contract.

67. Agents.

68. Escheated lands subject to trusts and incumbrances.

69. Certain patents ratified and confirmed.

§ 60. Persons entitled to petition for release.—A petition for the release to the petitioner of any interest in real property escheated to the state by reason of the failure of heirs or by reason of the alienage of any person, who, but for such alienage, would have succeeded to such interest, may be presented to the commissioners of the land office within forty years after such escheat. Such petition may be presented:

1. By any person who would have succeeded to such interest but for his own alienage or the alienage of another person, or

2. By the surviving husband, widow, step-father, step-mother or adopted child of the person whose interest has so escheated, or

3. By an heir, devisee, assignee, grantee or executor of any person, who but for his death, assignment or grant could present such petition.

Such petition shall be verified by each petitioner in the same manner as a pleading in a court of record may be verified, and shall allege:

1. The name and residence of each person owning any interest in such real property immediately prior to the escheat;

2. The name and residence of each petitioner and the circumstances which entitle him to present such petition;

3. The name and place of residence of every person who would have succeeded to any such interest but for his alienage or the alienage of another;

4. The description and value, at the date of the verification, of the petition, of such real property sought to be released;

5. The description and value, at the date of the verification of the petition, of all the property of every such owner which shall have escheated to the people of the state by reason of failure of

heirs or alienage and which shall not then have been released or conveyed by the state;

6. The name and residence of each person having or claiming an interest in such real property at the date of the verification of the petition and the nature and value of such interest;

7. Any special facts or circumstances by reason of which it is claimed that such interest should be released to the petitioner.

The petition may be filed within sixty days after its verification with the secretary of state, who shall present it to the commissioners of the land office at their next meeting thereafter, and who may call a meeting of the commissioners to consider the same.

【L. 1890, ch. 279, §1; R. S., 8th ed. (Supp.), 3433.

L. 1892, ch. 625,

L. 1893, ch. 191,

In subdivision 3 the words “heir, devisee, assignee, grantee or executor” are substituted for “heirs or assigns.” No other change in substance.】

§ 61. Proceedings on receipt of petition.—The commissioners of the land office shall determine the truth of the allegations of the petition; the value of the real property sought to be released; and the value of all the property of every such owner which shall have escheated to the state, and shall not have been conveyed or released by the state, and for that purpose the commissioners may take testimony and proof, either orally or by affidavits. They may, as a condition of hearing the matter, require the petitioners to produce witnesses or advance the expense of producing them.

【L. 1890, ch. 279, § 2; R. S., 8th ed. (Supp.), 3433.

The only change consists in the omission of a portion of section 2 which is already covered by Code Civ. Pro., § 843, and § 852, et seq.】

§ 62. Conveyance to petitioner.—If the value, at the date of the petition, as determined by the commissioners, of all the property of any such owner escheated to the state and not conveyed or released by the state, shall not exceed one hundred

thousand dollars, and of the property sought to be released shall not exceed ten thousand dollars, the commissioners may in their discretion, if they deem it just to all persons interested, execute, in the name of the state, a conveyance on such terms and conditions as the commissioners deem just, releasing to such petitioners the interest of the state so acquired in such real property so sought to be released. A conveyance so made to any such petitioner who is a parent, child, surviving husband or widow of any such owner of any interest therein immediately prior to the escheat, or the heirs or heirs at law of any such surviving husband or widow, shall be without consideration. The conveyance shall contain a brief recital of the determinations required to be made by the commissioners on the hearing of the petition, and of all the terms and conditions on which the conveyance is made.

[L. 1890, ch. 279, § 3; R. S., 8th ed. (Supp.), 3444,  
L. 1893, ch. 191,  
without change in substance.]

§ 63. Effect of deed on rights of others.—No such conveyance shall impair or affect any right, title, interest or estate in or to the lands thereby released, of any heir-at-law, devisee, grantee, mortgagee or creditor of any person having an interest in the real property released immediately prior to the escheat thereof, or of any person having a lien or incumbrance thereon, through, under or by any person having any interest therein immediately prior to the escheat.

[L. 1890, ch. 279, § 4; R. S., 8th ed. (Supp.), 3444,  
without change in substance.]

§ 64. Protest; notice of hearing petition.—Any person may file, at any time, with the secretary of state, a protest, stating his name, residence and post-office address, against the conveyance or release by the state of any interest of the people of the state, acquired by escheat, in any real property described in such protest. The secretary of state shall present such protest to the commissioners of the land office at their next meeting thereafter,

and the commissioners shall, if practicable, cause a notice of their hearing of any petition for the conveyance or release of any such real property, to be given to each person filing such protest, in such manner as will enable such person to appear before them on such hearing. They may, in their discretion, cause like notice to be given to any other person, of the hearing of any petition for the release by the state of any interest of the people of the state in any real property acquired by escheat, or may cause notice of such petition to be given generally by publication in a newspaper published in the county in which such real property is situated.

**[L. 1890, ch. 279, § 5; R. S., 8th ed. (Supp.), 3445, without change in substance.]**

§ 65. Disposition of moneys received; annual report.—All moneys received by the commissioners from any such petitioner on account of any such conveyance shall be paid by them forthwith to the state treasurer. The commissioners shall, annually, in the month of January, report to the legislature their proceedings on each petition presented under this article during the previous year, stating briefly all the facts determined by them on the hearing of such petition, the terms and conditions of each conveyance so made by them, the name of each grantee therein, and all moneys received by them in pursuance thereof, and their reason for refusal of any such petition presented to them, and whether any petitioner declined to accept any such conveyance on the terms and conditions fixed by the commissioners, and if the legislature be in session at the time of their refusal of any such petition, or of any such declination to accept such conveyance, the commissioners shall forthwith report to the legislature such petition and a like statement of their proceedings thereon.

**[L. 1890, ch. 279, § 6; R. S., 8th ed., (Supp.) 3445, without change in substance.]**

§ 66. Lands held under written contract.—Where lands have been escheated to the state, and the person last seized was a

citizen or capable of taking and holding real property, the commissioners of the land office shall fulfill any contract made by such person or by any person from whom his title is derived, in respect to the sale of such lands, so far only as to convey the right and title of the state, pursuant to such contract, without any covenants of warranty or otherwise, and shall allow all payments which may have been made on such contracts. If any part of such escheated land has been occupied under a verbal agreement for the purchase thereof, and the occupants have made valuable improvements thereon, such agreement shall be as valid and effectual as if it were in writing.

[L. 1831, ch. 116, §§ 1-2; R. S., 8th ed., 820,  
without change in substance.]

§ 67. Agents.—The commissioners of the land office may employ an agent to explore lands supposed to be escheated and collect evidence in relation to such escheat. The expenses incurred shall be paid out of the avails of escheated lands, on being audited by the commissioners, but such expenses shall not exceed the sum of five hundred dollars, in any one year.

[L. 1831, ch. 116, § 7; R. S., 8th ed., 821.

The only change consists in the omission of the last sentence of § 7, which is obsolete.]

§ 68. Escheated lands subject to trusts and incumbrances.—Lands escheated to the state for defect of heirs shall be held subject to the same trusts and incumbrances to which they would have been subject if they had descended.

[R. S., part II, ch. 1, title 1, § 2; R. S., 8th ed., 2418.

The only change consists in the omission of the second clause of § 2, which is obsolete.]

§ 69. Certain patents ratified and confirmed.—Patents of real property escheated to the state, granted before the 16th day of May, 1892, pursuant to resolutions of the commissioners of the land office, adopted under or in pursuance of chapter 279 of the

laws of 1890, have been ratified and confirmed unto the patentees therein, their heirs and assigns.

[L. 1892, ch. 625, § 2; R. S., 8th ed. (Supp.), 3443, without change in substance.]

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## ARTICLE V.

### Grants of Land Under Water.

Section 70. Grants of land under water.

71. Notice of application therefor.

Section 70. Grants of land under water.—This section authorizes grants of land under water:

1. Of navigable rivers or lakes.
2. Of the Hudson river adjacent to the state of New Jersey.
3. Adjacent to and surrounding Great Barn island in the city and county of New York, and between high and low-water mark on such island, but not so as to affect the navigation of the waters surrounding such island.
4. Adjacent to and surrounding Staten island, but not so as to extend more than five hundred feet into the water from low-water mark on said island, except where the legally established pier and bulkhead lines extend more than five hundred feet beyond low-water mark, in which case grants may be made to such lines.
5. Between high and low-water mark, in and adjacent to and surrounding Long Island, and all that part of the former or present county of Westchester lying on the East river or Long Island sound, but not beyond any permanent exterior water line established by law.

6. Of inland lakes where not included in any existing grants.

The commissioners of the land office may grant in perpetuity or otherwise, to the owners of the lands adjacent to the lands under water specified in this section, to promote the commerce of this state or for the purpose of beneficial enjoyment thereof by such owners, so much of said lands under water as they deem necessary for that purpose. No such grant shall be made to any

person other than the proprietor of the adjacent lands, and any such grant made to any other person shall be void. No such grant shall be made of any lands belonging to the city of New York, or so as to interfere with the rights of that city or of the Hudson river railroad company.

[R. S., part I, ch. 9, title 5, §§ 67-69; R. S., 8th ed., 633, L. 1850, ch. 283, § 2; R. S., 8th ed., 633, L. 1835, ch. 232, § 1; R. S., 8th ed., 634.

The clause commencing with the word "except," in sub. 4, is new; also the first line of sub. 6; and are inserted to supply conceded defects in the existing statute. Otherwise, there is no change except in phraseology.]

§ 71. Notice of application therefor.—Every applicant for a grant of land under water shall, previous to his application, cause notice thereof to be published at least once a week for six weeks, successively, in a newspaper printed in the county in which the land so intended to be applied for is situated; and a copy of such notice to be posted for the same period upon the door of the court-house of such county, and if there be no court-house in the county, at such place as the commissioners direct.

[R. S., Pt. I, ch. IX, title 5, § 70; R. S., 8th ed., 634.

A copy of the notice is not required to be posted for six weeks by § 70. No length of time is specified. The provisions of § 71 are omitted as obsolete and unnecessary.]

## ARTICLE VI.

### Mines.

Section 80. State mines.

81. Working of mines.

82. Private property in mines.

83. Notice of discovery; bounty to discoverer.

84. Permission for entry upon lands to work mines.

85. Entry by corporations to work mines.

§ 80. State mines.—The following mines are the property of the people of this state in their right of sovereignty:

1. All mines of gold and silver discovered, or hereafter to be discovered, within this state.

2. All mines of other metals discovered, or hereafter to be discovered, upon any lands owned by persons not being citizens of the United States.

3. All mines of other metals discovered, or hereafter to be discovered, upon lands owned by a citizen of the United States, the ore of which, on an average, shall contain less than two equal third parts in value of copper, tin, iron and lead, or any of those metals.

4. All mines and all minerals and fossils discovered, or hereafter to be discovered, upon any lands belonging to the people of this state.

[R. S., Pt. I, ch. IX, title 11, §§ 1-2; R. S., 5th ed., §17, L. 1890, ch. 411, § 1; R. S., 8th ed. (Supp.), 3206, consolidated without change in substance.]

§ 81. Working of mines.— Any citizen of this state discovering a valuable mine or mineral upon lands belonging to the state and filing the notice of discovery required by this article, may work such mine; and he and his heirs or assigns shall have the sole benefit of all products therefrom, on the payment into the state treasury of a royalty of two per centum of the market value of all such products. Such valuation shall be made when such products shall first be in a marketable form. A statement of the amounts sold or removed from the premises covered by such notice of claim, and of the trees cut or destroyed upon such lands, shall be made semi-annually under oath to the secretary of state, and payments of such royalty shall be made semi-annually to the state treasurer, under oath as to the amount thereof, on the basis of such semi-annual statement to the secretary of state. Any willful falsehood in the contents of such statement to the secretary of state or state treasurer in regard to such royalty, shall work a forfeiture to the state of the value of the whole amount mined during the period covered by such statements.

[L. 1890, ch. 411, §§ 1-2, 7; R. S., 8th ed. (Supp.), 3206, without change of substance.]

§ 82. Private property in mines.—All mines of whatever description, other than mines of gold and silver, discovered, or hereafter to be discovered, upon any lands owned by a citizen of any of the United States, the ore of which, on an average, contains two equal third parts or more in value of copper, tin, iron and lead, or any of those metals, shall belong to the owner of such land.

[R. S., pt. I, ch. IX, title 11, § 3; R. S., 8th ed., 818.  
without change of substance.]

§ 83. Notice of recovery; bounty to discoverer.—No person discovering a mine of gold or silver within this state shall work the same until he give written notice thereof to the secretary of state, which shall be registered in a book to be kept by such secretary, describing particularly the nature and situation of the mine. Such person, and his executors, administrators and assigns, shall be exempted from paying to the people of the state any part of the ore, produce or profit of such mine for the term of twenty-one years, to be computed from the time of giving notice of such discovery; and after the expiration of such term, the discoverer, or his representatives, shall be preferred in any contract for the working of such mine made with the legislature or under its authority.

[R. S., pt. I, ch. IX, title 11, §§ 4-6; R. S., 8th ed., 818.  
without change of substance.]

§ 84. Permission for entry upon lands to work mines.—Nothing contained in this article shall affect any grant heretofore made by the legislature to persons having discovered mines; nor be construed to give any person a right to enter upon or break up the lands of any other person, or of the state, or to work any mine in such lands, unless the written consent of the owner thereof, or of the commissioners of the land office, when the lands belong to the state, shall be previously obtained. Permission to erect buildings for working mines upon state lands within the forest preserve may be given by the forest commission, and elsewhere, by the commissioners of the land office, when such lands are entirely denuded of

timber or when such commission or commissioners are satisfied that the erection or occupation of such buildings will not be detrimental to the interests of the state. Nothing in this article shall authorize any person working a mine upon state lands to cut or destroy any timber whatever except such trees as it may be actually necessary to remove in order to uncover or make a road to such mine. For each tree measuring four inches or more in diameter at a height of one foot from the ground, which shall be so cut, the party operating the mine shall pay into the state treasury the sum of one dollar.

[R. S., part I, ch. IX, title 11, § 7; R. S., 8th ed., 818.  
L. 1890, ch. 411.]

The only change consists in requiring the consent of the forest commission instead of the commissioners of the land office in order to erect buildings for working mines, where such mines are situated within the forest preserve.]

§ 85. Entry by corporation to work mines.—Corporations formed for the purpose of working and having lawful authority to work mines found within this state may acquire the right and easement to enter upon and break up lands necessary for the operation of such mines, and if the written consent of the person in or upon whose lands such mine or mines are found shall be refused or can not be obtained by agreement, or by reason of the infancy or absence of such person from the state, or other legal disability of the owners of such lands, every such corporation may acquire such right and easement by condemnation, which right and easement when so acquired shall be deemed to have been so granted for a public use and for the public purpose of obtaining minerals reserved to the state. Before instituting any proceeding for such condemnation the corporation shall file with the commissioners of the land office, a full description of the location of such lands and obtain a grant of the right to acquire such right and easement from such commissioners who are authorized to make the same and fix the terms thereof.

[L. 1867, ch. 943, § 1; R. S., 8th ed., 819.]

No change in substance. The remainder of chapter 943 is omitted, as covered by the Condemnation Law.]

## ARTICLE VII.

## State Reservation at Niagara.

## Section 90. Commissioners.

91. Officers; treasurer's undertaking.
92. Powers and duties.
93. Purposes of the state reservation.
94. Removal of structures.
95. Gifts of property for purposes of the reservation.
96. Annual report; quarterly account.
97. Payment of moneys appropriated.
98. Laws repealed.
99. When to take effect.

§ 90. Commissioners.—There shall continue to be a board known as the commissioners of the state reservation at Niagara, consisting of five persons, residents of the state, appointed by the governor, by and with the advice and consent of the senate, and holding office for the term of five years. No member of such board shall receive any compensation for his services as commissioner, but shall be entitled to receive his actual disbursements for his expenses in performing the duties of his office. A vacancy in the office of a commissioner shall be filled by the governor and the person so appointed shall hold his office for the term of five years.

[L. 1883, ch. 336, § 1; R. S., 8th ed., 644,  
without change of substance.]

§ 91. Officers; treasurer's undertaking.—The commissioners shall select from among their number a president, and shall appoint some person to act as secretary and treasurer. The treasurer shall give an official undertaking in such sum as the commission shall determine.

[L. 1883, ch. 336, § 3; R. S., 8th ed., 644,  
L. 1885, ch. 286, § 6, R. S., 8th ed., 648,  
L. 1887, ch. 656.]

The greater part of § 3 is omitted as obsolete. That portion of § 6 is omitted which prescribes the mode of execution of the undertaking, as it is already covered by Public Officers' law, § 11.

The undertaking is to be filed in comptroller's office instead of the office of the secretary of state.】

§ 92. Powers and duties.—Such commissioners shall:

1. Have the control and management of the state reservation at Niagara.

2. Lay out, manage and maintain such reservation and make and enforce ordinances, by-laws, rules and regulations necessary to effect the purpose thereof, and for the orderly transaction of business, not inconsistent with law, and shall, within ten days after the adoption of such ordinances, by-laws, rules and regulations, publish them at least twice in some newspaper published in the city of Niagara Falls.

3. Fix the price to be charged by drivers of public conveyances for carrying persons for hire within the limits of such reservation.

4. Appoint a superintendent and employ such other persons as may be needed, one or more of whom, to be designated by the commissioners, shall have the power and may perform the duties of a police constable in criminal cases.

5. Fix the compensation of the persons appointed or employed by them.

6. Pay into the treasury of the state on the first day of each month all receipts and earnings of whatever nature other than receipts from the state treasurer. No debt or obligation shall be created by such commissioners exceeding the amount of moneys at their disposal at the time nor shall they or either of them or any other person have power to create any debt, obligation, claim, or liability for or on account of such commissioners except by their express authority conferred at a meeting of the commission.

【L. 1885, ch. 286, §§ 1, 3; R. S., 8th ed., 647,  
without change in substance.】

§ 93. Purposes of the state reservation.—The state reservation at Niagara shall forever be reserved by the state for the purpose

of restoring the scenery of Niagara Falls and preserving it in its natural condition, and kept open and free of access to all mankind without fee, charge or expense to any person for entering upon or passing to or over any part thereof.

[L. 1885, ch. 182, § 3; R. S., 8th ed., 647,  
without change of substance.]

§ 94. Removal of structures.— Such board shall sell and cause to be removed from such reservation all structures, machinery and materials thereupon belonging to the state, not required to afford free and convenient access to such reservation, nor for restoring the scenery of the Niagara Falls to and preserving it in its natural condition.

[L. 1885, ch. 286, § 2; R. S., 8th ed., 648,  
L. 1887, ch. 656,

The only change consists in the omission of the last clause of § 2, which was temporary in its application.]

§ 95. Gifts of property for purposes of the reservation.— Real and personal property may be granted, conveyed, bequeathed or devised to and taken by the state in aid of the purposes of such reservation, or to increase the same, and on such trusts or conditions as may be prescribed by the grantors or devisors thereof, provided the same be accepted or agreed to in writing by such commissioners. All such property shall be managed and controlled by the commissioners, and the rents, issues and profits thereof shall be turned into the state treasury, except where such rents, issues and profits were specifically devised or bequeathed to be used for a specific and definite purpose.

[L. 1885, ch. 286, § 4; R. S., 8th ed., 648,  
without change of substance.]

§ 96. Annual report; quarterly accounts.— The commissioners shall make an annual report of their proceedings to the legislature in the month of January, with a detailed statement of all their receipts and expenditures for the preceding fiscal year, and an estimate of the work necessary to be done, and of the expenses of

maintaining the reservation for the ensuing fiscal year, with such recommendations as they shall see fit. They shall quarterly, on the first day of January, April, July and October of each year, send to the comptroller a detailed and itemized account of all receipts and expenditures, with subvouchers for the items thereof for the preceding quarter, and such accounts shall be verified by the commissioners or their treasurer.

[L. 1885, ch. 286, § 5; R. S., 8th ed., 648,  
L. 1887, ch. 656,  
without change of substance.]

§ 97. Payment of moneys appropriated.—Moneys appropriated for caring for and maintaining such reservation, and carrying out the provisions of this article, shall be paid to the order of the treasurer of the commission by the state treasurer, upon the warrant of the comptroller. No warrant shall be issued until the amounts claimed have been audited and allowed by the comptroller, who is hereby authorized to determine the same, except that on the requisition of the treasurer of such commission the comptroller may advance out of the sum appropriated whatever moneys he deems necessary for the proper carrying out of the provisions of this article.

[L. 1885, ch. 286, § 7; R. S., 8th ed., 649,  
L. 1887, ch. 656,  
without change of substance.]

§ 98. Laws repealed.—Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is repealed.

99. When to take effect.—This chapter shall take effect October 1, 1894.

#### Schedule of Laws Repealed.

Revised Statutes...	Part I, ch. IX, title 5...	All except §§ 15, 54, 76.
Revised Statutes...	Part I, ch. IX, title 11...	All.
Revised Statutes...	Part II, ch. I, title 1...	§ 2.

Laws of	Chapter	Sections,
1829.....	261.....	All.
1830.....	268.....	1, 2, 3.
1831.....	61.....	All.
1831.....	116.....	All.
1834.....	37.....	All.
1835.....	232.....	All.
1836.....	234.....	All.
1836.....	457.....	3-9.
1839.....	134.....	All.
1841.....	70.....	All.
1841.....	92.....	All.
1850.....	283.....	All.
1867.....	943.....	All.
1869.....	196.....	All.
1875.....	572.....	4.
1876.....	297.....	All.
1877.....	359.....	All.
1881.....	605.....	All.
1881.....	625.....	All.
1882.....	192.....	All.
1883.....	336.....	All.
1883.....	470.....	All.
1884.....	42.....	All.
1884.....	109.....	All.
1885.....	182.....	3.
1885.....	286.....	All except § 3.
1886.....	435.....	All.
1887.....	656.....	All.
1889.....	256.....	All.
1890.....	279.....	All.
1890.....	411.....	All.
1892.....	625.....	All.
1893.....	191.....	All.

# COMMISSIONERS' MEMORANDUM

EXPLANATORY OF THE

## PUBLIC LANDS LAW.

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This chapter is a revision of the statutes prescribing the powers and duties of the Commissioners of the Land Office, to which has been added a consolidation of the existing provisions of law relating to the State reservation at Niagara.

The existing law conferring certain powers on the commissioners with reference to the disposition of certain lands of the State is found mainly in title 5, chapter 9, part 1 of the Revised Statutes and in a considerable number of statutes supplemental thereto, the provisions of which are frequently confusing if not actually conflicting. A potent factor in this confusion has been the fact that by section 66 of the title of the Revised Statutes referred to, the "unappropriated lands," the power of disposition of which was vested in the commissioners, were defined to be, "the lands belonging to the common school fund, all escheated lands and all other lands belonging to this state which are not directed by law to be kept for, or applied to any specific purpose," and all these lands were to be offered for sale in the first instance at public auction; while, by chapter 470 of the Laws of 1883, the commissioners were authorized to sell, in their discretion, and, apparently, without restriction as to method of disposition, "any lands which have been any part of the canal lands of this State and which have been or may be determined and officially declared by the canal board to be abandoned by the State for canal purposes, and also any lands to which the State has acquired title by

purchase on the foreclosure of mortgages taken by any loan commissioner on the loan of certain United States deposit funds, or any loan of money authorized by this State and also any lands lying within the corporate limits of any city or village, and which has not been devoted by statute to some public use." As to abandoned canal lands, another disturbing element is to be found in the provisions of chapter 267 of the Laws of 1857, as amended by chapter 361 of the Laws of 1869. The laws establishing the forest preserve and the Adirondack park further complicated this situation.

The bill now presented is the result of an attempt to reduce to simplicity, this confusing and complicated mass of statute law, with the smallest possible minimum of change of substance. Except the omission of temporary provisions and changes, made to conform to the Forest Preserve Law, which are not really alterations of law, the revisers believe the following to be the only changes in the substance of existing law proposed by this chapter:

1. The power of the Commissioners of the Land Office to make summary inquiries as to applications pending before them, is extended to applications for grants of land under water. (§ 9.)

2. The term for which the commissioners may extend the time within which conditions contained in grants are to be performed, now unlimited, is proposed to be limited to three years. (§ 13.)

3. The provisions of the Revised Statutes providing for prosecutions for trespasses upon lands belonging to the canal fund, are extended to all lands under the jurisdiction of the commissioners. (§ 16.)

4. All lands designated as unappropriated State lands are hereafter to be disposed of only at public auction to the highest bidder. (§ 33.)

5. Various minor regulations respecting terms of sale and redemption of lands purchased, which have become obsolete in practice or have been found unnecessary, have been omitted. (§§ 34, 37, 38.)

6. The power of the commissioners to make grants of land under water, is extended to land under the water of inland lakes, not

included in existing grants, and to the legally established pier and bulkhead lines around Staten Island. (§ 70.)

The appendix, following this chapter of the proposed revision, contains all the statutes proposed to be repealed. Cross references and notes explaining the principal changes in language, and all changes in substance, are appended to the several sections of the proposed revision and of the existing statutes set out in the appendix.

## APPENDIX TO THE PUBLIC LANDS LAW

CONTAINING THE

### LAWS PROPOSED TO BE REPEALED THEREBY.

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(R. S., part I, ch. 9, title 5; R. S., 8th ed., 617.)

Section 1. The commissioners of the land-office shall have the general care and superintendence of all lands belonging to this state, the superintendence whereof is not vested in some other officer or board. They shall also have power to direct the granting of the unappropriated lands of the state, according to the directions from time to time to be prescribed by law.

[Section 1 is re-enacted without change of substance in § 3 of revision.]

§ 2. All the powers now vested or hereafter to be vested in the commissioners, may be executed by a majority of the board, or by any three of them, if the surveyor-general be one of such three.

§ 3. The secretary of state shall convene the commissioners, as often as may be necessary for the transaction of business. At every meeting the lieutenant-governor, if present, shall preside; if he be absent, the members present shall choose their chairman.

§ 4. The deputy secretary of state shall be clerk to the commissioners, and shall enter the minutes of their proceedings in a book to be provided for the purpose, which shall be kept in the secretary's office, in proper order, with the papers and documents which may be presented to the board.

[Sections 2-4 are re-enacted without change of substance in § 2 of revision.]

§ 5. All letters patent hereafter to be granted shall be in such form as the commissioners shall direct, and shall contain an exception and reservation to the people of this state of all gold and silver mines.

[Section 5 is re-enacted in § 4 of revision, without change of substance.]

§ 6. Whenever the title of the people of this state to lands granted under its authority shall fail, and a legal claim for com-

(R. S., part I, ch. 9, title 5; R. S., 8th ed., 618-22.)

pensation on account of such failure shall be preferred by any person entitled thereto, it shall be the duty of the commissioners to direct the payment of the original purchase-moneys which may have been paid to the state by such person, with interest at the rate of six per cent from the time of such payment, to be paid out of the treasury, on the warrant of the comptroller.

【Section 6 is re-enacted without change of substance in § 5 of revision.】

§ 7. The commissioners may, from time to time, lease for terms not exceeding one year, and until the same can be disposed of as required by law, all such lands belonging to the state as have improvements on them, and which are not appropriated to any immediate use; and such leases shall contain proper covenants to guard against trespasses and waste.

【Section 7 is re-enacted without change of substance in § 3 of revision.】

§ 8. All expenses necessarily incurred by the commissioners in the discharge of the duties that are or shall be enjoined on them by law, shall be audited by the comptroller and paid out of the treasury.

【Section 8 is re-enacted in § 2 of revision, except the provision requiring payment of expenses of commissioners other than speaker, which is omitted as unconstitutional; see Const. art. IV, § 8; art. V, § 1.】

§ 9. The commissioners of the land office may, from time to time, as often as they shall judge it to be for the interest of the state, direct the surveyor-general to cause actual surveys to be made of such parts of the unappropriated lands of this state as they shall direct.

§ 10. Whenever it shall become the duty of the surveyor-general to make a survey and sale of public lands, he shall obtain from the commissioners of the land office, a certificate, to be directed to the comptroller, containing their estimate of the expenses of such survey or sale.

§ 11. He shall deliver such certificate to the comptroller; and the sum at which such expenses are estimated therein, shall be paid to him out of the treasury.

§ 12. It shall be the duty of the surveyors who shall be appointed by the surveyor-general to survey any unappropriated lands, in order to a sale thereof to appraise the value of each lot, exclusive of the improvements thereon, exceeding the value of twenty-five dollars.

§ 13. They shall deliver such appraisement, together with the returns of such surveys, and maps of the lots so surveyed, and

(R. S., part I, ch. 9, title 5; R. S., 8th ed., 622-24.)

a field-book, containing an account of the soil, timber and local advantages of each lot, to the surveyor-general; who shall cause a copy to be filed in the secretary's office.

§ 14. Every surveyor who shall be employed by the surveyor-general, to survey any unappropriated lands, and to appraise the value thereof, shall, before he proceeds to make such survey and appraisement, take and subscribe the oath prescribed by the constitution, and shall file the said oath, certified by the person before whom the same shall be taken, in the surveyor-general's office.

**[Sections 9-14 are re-enacted without change of substance in § 31 of revision.]**

§ 16. The surveyor-general shall make, or cause to be made, a map of each of the tracts so directed to be surveyed, distinguishing on such maps the town and county in which the lots are situate; which maps shall be deposited in his office and a copy thereof, to be furnished by him shall also be deposited in the office of the secretary of state.

§ 17. Such maps and copies shall be open to the inspection of every person, during the stated hours of doing business in the said offices until the lands described thereon shall be sold.

**[Sections 16 and 17 are re-enacted without change of substance in § 32 of revision.]**

§ 18. The commissioners of the land-office may, from time to time, direct the surveyor-general to sell the unappropriated lands belonging to this state, and not otherwise directed to be disposed of, at public auction, in such parcels as they shall deem most for the interest of the state, and for the promotion of the settlement thereof; but not more than twenty thousand acres shall be sold at any one auction, and each lot shall be separately exposed to sale.

§ 19. The commissioners shall, previous to every sale, furnish the surveyor-general with a statement of the price of each lot, below which it shall not be sold; and they shall also designate the newspapers in which the surveyor-general shall cause the notices of sale to be published; but they shall in all cases designate at least one newspaper published in the county where the lands to be sold are situated; or if there be no newspaper therein, then they shall designate at least one newspaper that shall be published nearest to such lands.

**[Sections 18-19 are re-enacted without change of substance in § 33 of revision.]**

§ 20. The commissioners shall also, previous to every sale, prescribe the amount of purchase-money to be paid at the time of

(R. S., part I, ch. 9, title 5; R. S., 8th ed., 624.)

sale to the surveyor-general. In fixing this amount, they shall have reference to the value and situation of the lands and timber thereon, and it shall in no case be less than twenty-five per cent nor more than seventy-five per cent of the purchase-money.

[Section 20 is re-enacted in § 34 of revision, but the maximum amount of purchase-money required by § 20 to be paid at the time of sale is omitted, the minimum only being fixed.]

§ 21. All public sales of lands belonging to the people of this state, to be made by the surveyor-general, shall be held by him in the city of Albany, unless he shall be otherwise directed by the commissioners of the land-office.

§ 22. He shall give eight weeks' previous notice of the time, place and conditions of such sale, to be published in such newspapers as the said commissioners shall have selected and prescribed.

[Sections 21-22 are re-enacted without change of substance in § 33 of revision.]

§ 23. Within forty-eight hours after each sale, the purchaser of each tract shall pay to the surveyor-general the first payment required thereon, and execute a penal obligation conditioned for the payment of the residue of the purchase-money to the people of the state of New York, in six equal annual payments, with interest at the rate of six per cent.

[Section 23 is re-enacted in § 34 of revision changed so as to allow ten days for the first payment of the purchase-money and in the execution of the bond instead of forty-eight hours as prescribed by the section.]

§ 24. If any purchaser shall refuse or neglect to make such payment, and to deliver such obligation to the surveyor-general as aforesaid, he shall, for every such refusal or neglect, forfeit the sum of fifty dollars for each lot so by him purchased, to be recovered with costs of suit by the surveyor-general.

§ 25. The surveyor-general, on the delivery to him of such obligation, and on the receipt of such payment, shall give such purchaser a certificate containing the name of the purchaser, a description of the land purchased, the sum paid, and the sum remaining due thereon; and shall deliver such obligation to the comptroller.

§ 26. The certificate of sale given by the surveyor-general, for any lands that have been or may be sold by him, shall not be deemed to confer upon the purchaser, any right to cut down or destroy any kind of wood or timber standing or growing upon such land, unless such right shall be expressly granted by the certificate; but where a right of entering into possession of any land so sold, shall be vested in the purchaser by the certificate, nothing herein

(R. S., part I, ch. 9 title 5; R. S., 3th ed., 623.)

contained shall prevent such purchaser from actually using and applying any wood or timber on the land, to the erection of fences or buildings thereon, nor from using the necessary firewood growing thereon in his family; nor from actually and fairly improving any such land for the purposes of cultivation.

[Sections 24-26 are re-enacted in § 34 of revision without change of substance.]

§ 27. Whenever any purchaser at a sale made by the surveyor-general, or the representatives or assigns of such purchaser, shall produce to the commissioners, the surveyor-general's certificate, with a receipt of the treasurer indorsed thereon, for the whole of the purchase-money due thereon, it shall be the duty of the comptroller to cancel the obligation executed by such purchaser on the sale, and letters patent for the lands described in the certificate shall be issued.

§ 28. Whenever any such certificate shall be lost or wrongfully withheld by any person from the owner thereof, the commissioners may receive evidence of such loss or wrongful detention; and on satisfactory proof of the fact, may issue a patent to such person as shall appear to them to be the proprietor of the land described in the original certificate.

[Sections 27-28 are re-enacted in § 35 of revision, which however does not require the treasurer's receipt to be indorsed on the state engineer's certificate, as required by § 27.]

§ 29. Whenever any person shall die, possessed of lands to which he had, under any law of this state, a pre-emptive right, the commissioners may hear and determine the claim of all persons who may claim to be entitled, in whole or in part, to such pre-emptive right; and on such determination, the person or persons to whom any such pre-emptive right, in whole or in part, shall be awarded, shall be entitled to all the rights and privileges, and be subject to all the restrictions and liabilities, of other purchasers of unappropriated lands.

[Section 29 is re-enacted in section 35 of revision.]

§ 30. The commissioners shall have power to establish such rules, as, in their opinion, may be proper, to prevent fraudulent applications on false suggestions, under the two preceding sections.

[Section 30 is re-enacted without change of substance in § 9 of revision.]

§ 31. Whenever the surveyor-general shall have exposed to sale, any lots of the unappropriated lands of this state, pursuant to law, and any of such lots shall remain unsold, the commissioners may direct the surveyor-general to issue certificates for the sale thereof, to such persons respectively, as shall thereafter, first

(R. S., part I, ch. 9, title 5; R. S., 8th ed., 626.)

make application for any of the said lots, at the minimum price affixed to them.

§ 32. No person shall be considered as an applicant, unless he shall have made the first payment, and executed the obligation required by law; and no one applicant shall be entitled to a grant of more than two lots, except so far as it respect lands in the counties of Saratoga, Washington, Warren, Schenectady, Montgomery, Essex, Clinton and Franklin.

§ 33. Whenever any lot of the unappropriated lands shall have been put up for sale, by the surveyor-general, and no bid shall be received for the same, and no application be made for the purchase thereof, within a reasonable time, the commissioners may, if in their opinion the minimum price was fixed too high, lessen the same, and direct the surveyor-general again to advertise, and proceed with the sale thereof.

§ 34. If any tract of land directed to be sold by the commissioners was occupied on the seventeenth day of February, one thousand eight hundred and nine, and improved to the value of twenty-five dollars, or exceeding that value, the occupant of such improvement shall be entitled to recover from the purchaser, the value thereof, at the time of the sale, to be ascertained by appraisers, one of whom shall be nominated by such occupant, another by the purchaser, and a third, in case of their disagreement, by the other two.

§ 35. If either, such occupant, or purchaser, shall refuse or neglect, on the application of the other, to make such nomination, and such neglect or refusal shall be proved to the satisfaction of the surveyor-general, he shall appoint appraisers to ascertain the value of such improvement.

§ 36. It shall be the duty of the appraisers, in making their appraisement, to deduct from the appraised value of such improvements, a reasonable allowance for the use of the lands by the occupant, and also for the deterioration of the value thereof, by his cutting and carrying away timber therefrom, during such occupancy, or causing it to be done.

§ 37. The purchaser and occupant shall each pay one-half of the expense of every such appraisement.

§ 38. The commissioners shall not issue letters patent for any such tracts of land until satisfactory proof be produced that the purchaser has, in the manner prescribed in this title, or otherwise, satisfied the occupant of such tract for his improvements thereon.

§ 39. The preceding five sections shall not extend to any lands that shall have been previously disposed of by the state, or to

(R. S., part I, ch. 9, title 5; R. S., 8th ed., 627.)

which the state shall have acquired title by escheat or confiscation, or by purchase at any sale under a mortgage, judgment, or other security, or by conveyance from any person indebted to it.

**[Sections 31-39 are not re-enacted.]**

Sections 31-32 which authorize private sales of unappropriated lands are omitted because in practice it has been found preferable for the interests of the state to require all unappropriated state lands to be sold at public auction upon the terms and conditions prescribed by §§ 33-34 of revision.

Section 33 is not re-enacted in form, because § 33 of revision authorizes the commissioners previous to every sale, to fix the lowest sum at which each lot may be sold.

Sections 34-39 are not re-enacted, because they are obsolete.

§ 40. Whenever any person to whom a grant of land shall have been ordered, pursuant to any law of this state, shall die before the issuing of such grant, the heirs or devisees of every such person shall be entitled to such grant upon their complying with the conditions upon which the grant was to have been made.

§ 41. In case any moneys shall remain due to the state on account of the consideration of such lands, and the execution of the securities for the payment of such consideration or any part of it, shall appear to be one of the conditions required of the grantee, the heirs and devisees, if of age, shall execute them.

§ 42. If such heirs or devisees are not of full age, the treasurer and comptroller shall open an account with them for such consideration monies, in their respective offices; and the treasurer shall receive payments and give receipts on such accounts.

§ 43. When such account shall be paid in full, the grant shall issue to such heirs or devisees; and in case of default in the payment of the monies due on such account, according to the condition of the grant, the commissioners may direct the surveyor-general to sell the land at public auction.

**[Sections 40-43 are re-enacted without change of substance in § 12 of revision.]**

§ 44. Whenever any person shall by virtue of any special law, become entitled to a grant of any of the unappropriated lands of the people of this state, he shall apply for the grant within twelve months after the passing of the law in his favor, unless it be otherwise provided by such law.

§ 45. After the expiration of the time above limited, it shall not be lawful for the commissioners to issue such grants; but such land shall be sold in the manner directed for the sale of unappropriated lands.

**[Sections 44-45 are re-enacted without change of substance in § 40 of revision.]**

(R. S., part I, ch. 9, title 5; R. S., 8th ed., 628.)

§ 46. If any one payment, stipulated in any obligation received by the surveyor-general upon any sale of unappropriated lands shall remain due one year after the same ought to have been made, the commissioners of the land office may direct the comptroller to put such obligation in suit, or may direct the surveyor-general to sell again the land, for the payment of which such obligation shall have been given; and in case of such sale, all previous payments made on account of such land shall be forfeited to the people of this state.

【Section 46 is re-enacted without change of substance in § 36 of revision.】

§ 47. Whenever the state engineer and surveyor shall resell any lot of land bonded to the state, he shall include in the amount for which such lot is offered for sale, the sums due at the time of such sale for principal and interest on the purchase-moneys thereof, the amounts due on the books in the comptroller's office for taxes, and the interest and charges thereon, and the costs of such sale; and in case the total amount of such charges shall not be bid therefor, he shall purchase the same for the state at the amount so due. (Thus amended by L. 1875, chap. 572, § 1, sub. nom., "§ 60" of this title, that being the number given to it by the editors of the 6th edition.)

【Section 47 is re-enacted without change of substance in § 37 of revision.】

§ 48. The surveyor-general may sell such lot or lots of land so purchased by him for the state, to any person who may apply to purchase the same; always giving a preference to the last owner, provided he shall apply to purchase the same within three months after the sale, for the amount at which the same was purchased for the state, on the like terms and conditions, as he is authorized to sell the unappropriated lands of the state.

【Section 48 is re-enacted in § 37 of revision, with the exception of the clause requiring the state engineer to give preference to the last owner, which is omitted.】

§ 49. If the commissioners of the land office shall have directed a new appraisal of such lands, the surveyor-general may sell the same, in the manner authorized in the preceding section, for the prices at which the lots may be respectively appraised.

【Section 49 is re-enacted without change of substance in § 37.】

§ 50. All lands which have been, or shall be, purchased for, or on behalf of the state, by the attorney-general, pursuant to law, except in cases already provided for by law, shall be sold by the surveyor-general, under the direction of the commissioners of the land-office, in such manner and on such terms and conditions as to them shall appear for the interest of the state.

(R. S., part I, ch. 9, title 5; R. S., 8th ed., 628.)

§ 51. It shall also be his duty to sell, under the like direction of the commissioners of the land-office, and on the terms and conditions prescribed by them, all or any of the lands purchased by the commissioners of loans, for the benefit of the people of this state, according to the provisions of "An act authorizing a loan of monies to the citizens of this state," passed April 11, 1808, and all or any of the lands which have been or may be purchased in behalf of the people of this state, or which have or may become the property of the said people by virtue of the "Act authorizing a loan of certain moneys belonging to the United States, deposited with the state of New York for safe keeping," passed April 4, 1837, or by virtue of any other act authorizing any loan of money for the benefit of the people of this state, or of any fund belonging to them. (Thus amended by L. 1841, chap. 92, sub. nom., "§ 65," that being the number given to it by the editors of the 2d edition of the Revised Statutes.)

[Sections 50-51 are not re-enacted in form, but the term "unappropriated state lands" as defined by § 30 of the revision is intended to include the lands specified in these sections, while § 33 of revision prescribes the manner in which such lands are to be sold.]

§ 52. Whenever the commissioners direct a resale, pursuant to the foregoing provisions, they shall cause notice to be given to every occupant of such land to remove therefrom; and in case of his refusal or neglect to comply with such notice, they shall direct the district attorney of the county in which such lands may be situated, to enter a complaint against such occupant, before one of the judges of the court of common pleas of the county.

§ 53. The judge shall proceed to examine into the matter; and on proof, by the production of a certificate from the clerk of the commissioners of the land-office, that a resale of such land has been duly ordered for default of payment, he shall issue his warrant to the sheriff of the county, commanding him, within ten days after the receipt thereof, to remove such occupant from such lands; and it shall be the duty of the sheriff, within the time specified in the warrant, to remove such person, and for that purpose, he shall have the same powers as in the execution of criminal process.

[Sections 52-53 are re-enacted without change of substance in § 39 of revision.]

§ 54. The sheriff shall retain such warrant in his hands, and if any person so removed shall return, to settle or reside upon such lands, without the consent of the surveyor-general, such person shall be forthwith removed by the sheriff, pursuant to the warrant; and shall also be deemed guilty of a misdemeanor, and be

(R. S., part I, ch. 9, title 5; R. S., 8th ed., 629.)

liable, on conviction, to be fined or imprisoned: the fine not to exceed one hundred dollars, and the imprisonment not to exceed thirty days.

【The first clause of section 54 is re-enacted without change of substance in § 39 of revision and the second clause is to be reported as an amendment to the Penal Code.】

§ 55. Every judge who may issue a warrant under this title, for issuing such warrant and taking the preliminary proof, shall be entitled to receive a fee of one dollar in each case; and the sheriff, for executing every such warrant, shall be allowed such compensation as the comptroller shall certify to be reasonable; which fees shall be paid out of the treasury.

【The first clause of § 55 is omitted as unconstitutional and the last clause is re-enacted without change of substance in § 39 of revision. See Const., art. VI, § 21.】

§ 56. Whenever the commissioners shall cause such lands to be sold, and such previous payments to be forfeited, they may deliver up and cancel the obligations, given for the lots so ordered to be sold, on the certificates of sale being surrendered.

【Section 56 is re-enacted without change of substance in § 36 of revision.】

§ 57. If, on any such sale, the surveyor-general shall become the purchaser, in behalf of the state, the commissioners of the land office shall direct whether the land purchased shall be offered for sale by the surveyor-general, at the price for which the same was purchased by him, or whether a new appraisement shall be made thereof, under his direction.

【Section 57 is re-enacted without change of substance in § 37 of revision.】

§ 58. Whenever grants of land shall have been directed to be made by the commissioners of the land office, upon the performance of any conditions by the grantees, and no time for the performance of such conditions has been prescribed by law, or by the terms of any agreement on the part of the state, the commissioners may fix a reasonable time for the performance of such conditions, not less than one year.

§ 59. They shall cause notice of the time so fixed, to be inserted in the state paper for at least six weeks, and shall transmit by mail a copy of such notice to the persons interested.

§ 60. If such conditions shall not be performed, within the time limited in such notice, the person or persons entitled to any benefit under such grant, shall forfeit all right and title in the premises.

【Sections 58-60 are re-enacted without change of substance in § 13 of revision.】

(R. S., part I, ch. 9, title 5; R. S., 8th ed., 630.)

§ 61. The commissioners of the land office, upon the application of any person for any unappropriated lands in the fourth senate district, not less than one hundred and sixty acres, may sell such lands, if already surveyed, at such price as they shall ascertain to be their cash value.

§ 62. If application be made for any quantity of such lands, not less than one thousand acres, not already surveyed, the commissioners may cause surveys and estimates thereof to be made, and may sell the same at their real cash value, as ascertained by them.

§ 63. The purchasers of lands under the two last sections, shall be subject to the duties and liabilities, and entitled to the rights and privileges, of other purchasers of unappropriated lands.

**[Sections 61-63 are not re-enacted in form, but § 30 and § 33 of revision furnish a substitute for them.]**

§ 64. No lands so sold, for five years after the sale, shall be assessed by the assessors of the town in which they shall lie, at any higher valuation than the estimate upon which they were sold, unless improvements shall within that time have been made thereon; in which case, the value of such improvements shall be added to the estimate.

**[Section 64 is not re-enacted.]**

§ 65. The attorney-general, whenever so directed by the commissioners of the land office, shall cause partition to be made of such tracts of land as are held in joint-tenancy, or tenancy in common, in which the people of this state are interested; and for that purpose he may do all such acts as any joint tenant, or tenant in common, is authorized by law to do.

**[Section 65 is re-enacted without change of substance in § 6 of revision.]**

§ 66. The lands belonging to the common school fund, all escheated lands, and all other lands belonging to this state which are not directed by law to be kept for, or applied to, any specific purpose, shall be deemed unappropriated lands, within the meaning of this title.

**[Section 66 is re-enacted without change of substance in § 30 of revision.]**

§ 67. The commissioners of the land-office shall have power to grant, in perpetuity or otherwise, so much of the lands under the waters of navigable rivers or lakes, as they shall deem necessary, to promote the commerce of this state, or proper for the purpose of beneficial enjoyment of the same by the adjacent owner; but no such grant shall be made to any person other than the proprietor of the adjacent lands, and any such grant that shall be

(R. S. part I, ch. 9, title 5; R. S. 5th ed. 633.)

made to any other person shall be void. (Thus amended by L. 1850, chap. 283, § 1.)

§ 68. The power hereby vested in the said commissioners, shall extend to lands under the water of Hudson's river, adjacent to the state of New Jersey; and also to lands under waters adjacent to and surrounding Great Barn Island, in the city and county of New York; and to the land between high and low water mark on said island: but no grant shall be so made as to interfere with the rights of the corporation of the city of New York, or to affect the navigation of the waters surrounding the said island.

§ 69. The powers of the commissioners shall also extend to the lands under water, adjacent to and surrounding Staten Island; but no such grant shall be so made as to interfere with any rights of the corporation of the city of New York, or to extend more than five hundred feet into the water from low water mark.

【Sections 67-69 are re-enacted without change of substance in § 70 of revision.】

§ 70. Every applicant for a grant of land under water shall, previous to his application, give notice thereof, by advertisement, to be published for six weeks successively, in a newspaper printed in the county in which the land so intended to be applied for, shall be situated; and shall cause a copy of such advertisement to be put up on the door of the court-house of such county, and if there be no court-house in the county, then at such place as the commissioners shall direct.

【Section 70 is re-enacted in § 71 of revision which requires the notice to be posted six weeks.】

§ 71. If there be no newspaper published in the county where such lands shall lie, the advertisements shall be published in the newspaper that shall be printed nearest to such land.

【Section 71 is not re-enacted. It is unnecessary.】

§ 72. The commissioners of the land-office may require the sheriff of any county in which lands belonging to the people of this state, for which patents shall not have been issued, or any Indian lands, may be situated, to examine and report to them, and to the district attorney of his county, any trespasses that may be committed on such lands, by cutting or carrying away the timber thereon.

【Section 72 is re-enacted in § 7 of revision with the following changes: Section 7 applies to all trespasses while § 72 applies only to trespasses committed by cutting or carrying away "timber." Section 7 does not apply to lands belonging to the forest preserve, while this section (§ 72) is unlimited in its application. As to lands belong to the forest preserve, this subject is provided for in § 112 of the Agricultural Law.】

(R. S., part I, ch. 9, title 5; R. S., 8th ed., 635.)

§ 73. Every district attorney, on receiving any such report, and also whenever directed by the commissioners of the land-office, shall commence suits against such trespassers, for the penalty imposed in the next section; or shall present indictments against such trespassers to the grand jury of his county, as he shall judge most discreet. In either case, he shall cause the witnesses to support such prosecutions to be duly subpoenaed, and shall conduct such prosecution to a final determination.

[Section 73, except the last sentence, is re-enacted without change of substance in § 7 of revision. Section 609 of criminal code provides for the subpoenaing of witnesses before grand juries and § 7 of Code of Civil Procedure for issuing of subpoenas in other case.]

§ 74. Every person who shall trespass on any land belonging to the people of this state, or any Indian lands, or who shall trespass upon any other lands within the bounds of the Forest Preserve, or which may hereafter be included in the Forest Preserve by cutting or carrying away timber growing thereon, shall forfeit and pay the sum of twenty-five dollars for every tree that shall be cut or carried away by him, or under his direction. (Thus amended by L. 1889, ch. 256.)

[Section 74 is re-enacted in § 8 of revision, without change of substance, except that the portion relating to trespasses on Indian and forest preserve lands is omitted from § 8 as it is already taken care of by Indian L., § 11 and Agricultural L., § 112.]

§ 75. The district attorney shall apply such penalties, when collected, first to the payment of the costs and expenses incurred, including a reasonable compensation to the witnesses who shall attend in behalf of the people, to be certified by the court before which such recovery shall be had, and shall pay the residue thereof into the treasury of the county.

[Section 75 is re-enacted without change of substance in § 8 of revision.]

§ 77. All assessments legally made, upon lands belonging to the people of this state, and all legal rents or charges thereon, shall be audited by the comptroller, and paid out of the treasury. And this section shall extend to all such assessments on lands sold or leased under the authority of this state, made prior to the sale or letting of such lands, unless the purchaser or lessee shall have agreed to pay such assessments.

[Section 77, except last sentence, is re-enacted without change of substance in § 20 of revision. The last sentence is not re-enacted because it is deemed unnecessary and superfluous.]

§ 78. The commissioners of the land-office shall dispose of the lands conveyed to this state for the benefit of the canal fund,

(R. S., part I, ch. 9, title 5; R. S., 8th ed., 636.)

in such manner, at such times, and on such terms as they shall judge best for the interest of the canal fund; and for that purpose, they shall from time to time, cause such surveys and examinations to be made, as they shall deem necessary.

§ 79. The expenses of such surveys and examinations, shall be defrayed in the same manner, as the expenses relating to the surveys and sales, of the unappropriated lands of this state.

[Sections 78-79 are not re-enacted in form. The term "unappropriated land," as defined by § 30 of revision, includes the lands specified in § 78. The manner of sale, is prescribed by §§ 33-34 of revision. Section 79 and the provision of § 78, authorizing the commissioners to "cause such survey and examinations to be made as they shall deem necessary," is covered by § 31 of revision.]

§ 80. Whenever any part of such lands shall be sold, the commissioners shall require at least fifty per cent of the purchase money to be paid in hand or secured to their satisfaction on other property, payable in three annual installments, with interest; and in either case, the residue of the purchase money shall be payable in three yearly payments, with interest at the rate of six per cent per annum.

[Section 34 of revision is a substitute for § 80. The following change is made: Twenty-five per cent instead of fifty per cent of purchase money is required at the sale and the residue is to be paid in six equal annual installments instead of three.]

§ 81. The commissioners of the land-office shall from time to time, appoint discreet agents, to prosecute all trespassers on any lands belonging to the canal fund.

§ 82. Every such agent shall give such reasonable security, from time to time, to the people of this state, for the faithful execution of his trust, as the commissioners shall require and approve.

§ 83. He may bring suits, in the name of the people, against all persons who shall have trespassed on the said lands, and may prosecute the same to judgment and execution.

§ 84. The costs and expenses which such agent may incur in any such suit, together with such compensation for services as the commissioners shall deem just, shall be paid to him out of the treasury; but no allowance shall be made to him for any suit in which the defendant shall succeed on the trial, unless the commissioners shall be satisfied that there was probable cause for bringing such suit.

[Sections 81-84 are re-enacted in § 16 of revision, but changed so as to apply to all lands belonging to the state other than the forest preserve, the latter being provided for by the Agricultural Law.]

(R. S., part I, ch. 9, title 11; R. S., 8th ed., §17.)

Section 1. The following mines are, and shall be, the property of the people of this state, in their right of sovereignty:

1. All mines of gold and silver discovered, or hereafter to be discovered, within this state.

2. All mines of other metals discovered, or hereafter to be discovered, upon any lands owned by persons not being citizens of any of the United States.

3. All mines of other metals discovered, or hereafter to be discovered, upon lands owned by a citizen of any of the United States, the ore of which, upon an average, shall contain less than two equal third parts in value, of copper, tin, iron and lead, or any of those metals.

[Section 1 is re-enacted without change of substance in § 80 of revision.]

§ 2. All mines, and all minerals, and fossils discovered, or hereafter to be discovered, upon any lands belonging to the people of this state, are and shall be the property of the people, subject to the provisions hereinafter made to encourage the discovery thereof. Any citizen of this state who shall have discovered or who may hereafter discover any valuable mine or mineral upon said lands, and shall file the notice in this title required, shall be entitled to work such mine and he and his heirs and assigns shall have the sole benefit of all products therefrom, upon payment into the state treasury of a royalty of two per centum of the market value of all such products. Such valuation shall be made when said products shall first be in marketable form. A statement of the amounts sold or removed from the premises covered by said notice of claim, shall be made semi-annually under oath to the secretary of state, and payments of such royalty shall be made semi-annually to the state treasurer, under oath as to the amount thereof upon the basis of such semi-annual statement to the secretary of state. Any willful falsehood, in the contents of such statement, to the secretary of state, or the state treasurer, shall work a forfeiture to the people of this state of the whole amount mined during the period covered by such statements. (Thus am. by L. 1890, ch. 411.)

[The first sentence of § 2 is re-enacted without change of substance in § 80 revision, and the remainder of the section is re-enacted without change of substance in § 81 of revision.]

§ 3. All mines of whatever description, other than mines of gold and silver, discovered or hereafter to be discovered, upon any lands owned by a citizen of any of the United States, the ore of which, upon an average, shall contain two equal third parts or more, in

(R. S., part I, ch. 9, title 11; R. S., 8th ed., 818.)

value, of copper, tin, iron and lead, or any of those metals, shall belong to the owner of such land.

【Section 3 is re-enacted without change of substance in § 82 of revision.】

§ 4. Every person who shall make a discovery of any mine of gold or silver, within this state, and the executors, administrators or assigns of such person, shall be exempted from paying to the people of this state, any part of the ore, produce or profit of such mine, for the term of twenty-one years, to be computed from the time of giving notice of such discovery, in the manner hereinafter directed.

§ 5. No person discovering a mine of gold or silver within this state, shall work the same, until he gives notice thereof, by information in writing, to the secretary of this state, describing particularly therein, the nature and situation of the mine. Such notice shall be registered in a book, to be kept by the secretary for that purpose.

§ 6. After the expiration of the term above specified, the discoverer of the mine, or his representatives, shall be preferred, in any contract, for the working of such mine, made with the legislature, or under its authority.

【Sections 4-6 are re-enacted without change of substance in § 83 of revision.】

§ 7. Nothing contained in this title shall affect any grants heretofore made by the legislature to persons having discovered mines, nor be construed to give any person a right to enter on, or break up the lands of any other person, or of the people of this state, or to work any mine in such lands, unless the consent, in writing, of the owner thereof, or of the commissioners of the land office, when the lands belong to the people of this state shall be previously obtained. The commissioners of the land office may also give permission to erect buildings for working mines upon lands belonging to the people of this state when such lands are entirely denuded of timber, or in any other case when they are satisfied that the erection or occupation of such buildings will not be detrimental to the interests of the state. But nothing contained in this title shall authorize any person working any mine upon lands belonging to the people of this state to cut or destroy any timber whatever except such trees as it may be actually necessary to remove in order to uncover or make road to such mine. For each tree measuring four inches or more in diameter at a height of one foot from the ground which shall be so cut, the party or parties operating the mine shall pay into the state treasury the sum of one dollar. The semi-annually statement

herein required to be made to the secretary of state shall contain a report of such cutting of trees, and such report shall be a material part of such statement. (Thus am. by L. 1890, ch. 411.)

【Section 7, except the last sentence is re-enacted in § 84 of revision, with the following change: When the mines are situate within the forest preserve, the permission of the forest commission instead of the commissioners of the land office must be obtained before buildings may be erected on such lands. The last sentence is re-enacted without change of substance in § 81 of revision.】

(R. S., part II, ch. 1, title 1; R. S., 8th ed., 2418.)

§ 2. All escheated lands, when held by the state, or its grantees, shall be subject to the same trusts, incumbrances, charges, rents, and services, to which they would have been subject, had they descended; and the court of chancery shall have power to direct the attorney-general to convey such lands to the parties equitably entitled thereto according to their respective rights or to such new trustee as may be appointed by such court.

【The first clause of this section is re-enacted without change of substance in § 68 of revision. The last clause is obsolete and not re-enacted.】

(L. 1829, ch. 261; R. S., 8th ed., 631.)

Section 1. Any person who has obtained or shall hereafter obtain the certificate of the surveyor-general of having purchased any land of the people of this state, may upon obtaining the consent of the commissioners of the land-office, and on such terms as they shall prescribe, bring and maintain actions for any injury done or to be done to such lands after the date of such certificate, in the same manner as he might have done had a patent been granted in lieu of such certificate.

§ 2. Any person to whom such certificate has been or shall be legally assigned, may have the like remedy for any injury done, or to be done after such assignment.

【This chapter is re-enacted without change of substance in § 41 of revision.】

(L. 1830, ch. 268; R. S., 8th ed., 618.)

Section 1. The comptroller is hereby directed to transfer upon the books of his office, from the general fund, and to charge to the canal fund, all the expenses heretofore paid for the survey and appraisement of the lands ceded to this state by the Holland land company, for the benefit of the canal fund.

【Section 1 is not re-enacted as it is obsolete.】

(L. 1830, ch. 268; R. S., 8th ed., 618.)

§ 2. The commissioners of the land office are hereby authorized, in their discretion, and when they shall think it for the interests of the state so to do, to order the treasurer, upon the warrant of the comptroller, to pay off and cancel any charges, assessments or incumbrances, existing upon any lands which shall have been bought in by the state upon the foreclosure of mortgages, so as to perfect in the state a title to any such lands.

【Section 2 is re-enacted without change of substance in § 18 of revision.】

§ 3. All expenses of survey, appraisement, or any other expenses attendant upon the sale of any lands belonging to any of the special funds of this state, shall hereafter be chargeable upon and paid out of the funds respectively to which any such lands belong.

【Section 3 is re-enacted without change of substance in § 19 of revision.】

(L. 1831, ch. 61; R. S., 8th ed., 523.)

Section 1. The surveyor-general shall within one year from the date hereof, cause township number eleven, of the old military tract, to be re-surveyed, and the lines and corners and numbers of the lots to be distinctly marked thereon, and an accurate map to be made of the same, a copy of which map shall be filed in the clerk's office of the town of Wilmington.

【Section 1 is not re-enacted; it is obsolete.】

§ 2. Whenever the commissioners of the land office shall deem it necessary to have the lines of other tracts re-surveyed for the purpose of promoting the sale thereof, or for the better identifying the bounds of lots, it shall be lawful for them to direct the surveyor-general to cause such surveys to be made.

【Section 2 is not re-enacted in form, but is covered by § 31 of revision, which applies to unappropriated state lands.】

(L. 1831, ch. 116; R. S., 8th ed., 820.)

Section 1. Where lands have been or shall be escheated to the people of this state, and the person last seized was a citizen, or capable of taking and holding real estate, the commissioner of the land-office shall fulfill any contracts which may have been made by the person so seized, or by any person from whom his title is derived, in respect to the sale of any such lands, so far only as to convey the right and title of this state, pursuant to such contracts, without any covenants of warranty or otherwise, and shall allow all payments which may have been made on such contracts.

(L. 1831, ch. 116; R. S., 8th ed., §20.)

§ 2. If any part of such escheated land shall have been occupied under a verbal agreement for the purchase thereof as aforesaid, and the occupants shall have made valuable improvements thereon, the same shall be deemed as valid and effectual within the provisions of this act, as if such agreement had been in writing.

[Sections 1-2 are re-enacted without change of substance in § 66 of revision.]

§ 3. In cases where the commissioners of the land-office shall be satisfied that the payments still due on any such contract exceed the value of the land exclusive of improvements made by the purchaser, and in cases where tenants have occupied any part of such escheated lands, by the permission of the person last seized, or of any person from whom his title is derived, with a view to the purchase thereof, the said commissioners shall cause such land to be appraised, and shall sell the same to the person who may have made such contract or to the tenant who shall have so occupied any part of such land, their representatives or assigns, for the appraised value of such land, exclusive of improvements, upon such person or tenant complying with the provisions of this act.

§ 4. Application for the benefits of the provisions of this act, shall be made by the persons entitled thereto, within one year after the land in respect to which such application shall be made, shall have been reported by the attorney-general, to the commissioners of the land-office, as having been recovered.

§ 5. When the amount due on any contract shall have been ascertained, and when the appraised value of any land shall have been obtained as herein provided, the applicants for the benefit of this act, shall, within such time as the commissioners of the land-office shall direct, pay into the treasury of this state, twenty-five per cent of the amount due on any such contract, or of the appraised value of such land, as the case may be, and execute their penal obligations respectively, for the payment of the residue of such amount, or of such appraised value, to the people of this state, in six equal annual payments, with interest at the rate of six per cent.

§ 6. On such payment being made, and such obligation being delivered to the surveyor-general, he shall give to such purchaser a certificate similar to that required to be given by the third article of title fifth of the ninth chapter and first part of the Revised Statutes, to purchasers of unappropriated lands; which certificate shall confer on such purchaser, his representatives and assigns, the rights in the said article specified, subject to the limita-

(L. 1831, ch. 116; R. S., 8th ed., 821.)

tions and conditions therein mentioned, in respect to the sale of unappropriated lands.

【Sections 3--6 are not re-enacted in form. The lands are to be sold the same as other unappropriated State lands, as prescribed by §§ 33--34 of revision.】

§ 7. The commissioners of the land-office may employ an agent to explore any lands supposed to be escheated, and to collect evidence in relation to such escheat; and the expenses incurred therein shall be paid out of the avails of escheated lands, upon being audited by the commissioners; but such expenses shall not exceed the sum of five hundred dollars in any one year; and any expenses already incurred in the employment of such agent, in relation to lands escheated by the death of John G. Leake, not exceeding three hundred dollars, shall be paid in like manner.

【Section 7 except last clause is re-enacted, without change of substance in § 67 of revision. The last clause of this section is not re-enacted as it is obsolete.】

§ 8. In case where lands escheated have been or shall be recovered in suits against tenants in possession of such lands, who would be entitled to the benefits of the provisions of this act, and such tenants shall not have contested the recovery by this state, they shall not be liable to pay the costs of such suits; but the costs and charges of the attorney-general therein, and also his costs and charges in conducting proceedings for the recovery of lands escheated against unknown owners or claimants, where such lands shall be actually recovered, for the payment of which no provision is made by law, shall be paid out of the avails of escheated lands, on the warrant of the comptroller.

【This section has been considered obsolete in practice since the enactment of the Code of Procedure.】

(L. 1834, ch. 37; R. S., 8th ed., 821.)

Section 1. The commissioners of the land-office may grant releases under the fifteenth section of the act entitled "An act concerning escheats," passed April 29, 1833, in all cases where the alien through whom the title has passed was a resident of the United States, although the alien may not have filed such disposition or taken such incipient measures as are mentioned in the twelfth section of said act.

§ 2. Upon the execution of any release under the foregoing section, the commissioners shall require payment or security, pursuant to the directions of said act, of a sum not less than one-fortieth part of the ascertained value of the lands released; sub-

(L. 1834, ch. 37; R. S. 8th ed. §22.)

ject, however, to the provisions of the nineteenth section of said act.

§ 3. In ascertaining the amount to be paid or secured on granting releases; under the first section of the act hereby amended, the commissioners may deduct from the ascertained value of the land the debts which, under the fifth section of the act, would be a charge on the grantee of the lands released.

【This chapter is repealed, but not re-enacted in revision. It is supposed to have been repealed by implication by L. 1845, ch. 115, but has been inserted in the repealing schedule to settle all doubts on the subject.】

(L. 1835, ch. 232; R. S., 8th ed., 634.)

Section 1. The powers conferred on the commissioners of the land-office by article fourth of title fifth, chapter ninth of part first of Revised Statutes, are hereby extended to lands under water, and between high and low watermark, in and adjacent to and surrounding Long Island, and to all that part of the county of Westchester lying on the East river or Long Island sound; but no grant shall be made within the boundaries of the city of New York, or interfere with the rights of the corporation of said city.

§ 2. This act or the act referred to in the preceding section, shall confer upon the said commissioners no other power than to authorize the erection of such dock or docks, as they shall deem necessary to promote the commerce of this state, and the collection of reasonable and accustomed dockage from the persons using such dock or docks, and the legislature may at any time regulate the same in such manner as they shall think proper.

§ 3. So much of article fourth of title fifth of chapter ninth of part first of the Revised Statutes as is inconsistent with this act is hereby repealed.

【This chapter is re-enacted in § 70 of revision with the following changes: The portion referring to the county of Westchester is changed so as to comply with existing boundary. Section 2 is changed in form but not in substance. Section 3 is not re-enacted.】

(L. 1836, ch. 234; R. S., 8th ed., 635.)

Section 1. Whenever suits have been brought, or shall hereafter be brought, by the direction of the commissioners of the land-office, pursuant to the fifth article of the fifth title of the ninth chapter of the first part of the Revised Statutes, and the plaintiffs in such suits have failed or shall fail to recover in such suits, or the defendants in such suits shall be unable to pay the

costs adjudged against them, the comptroller shall have power to audit and settle the amount of the taxable costs in such suits, and to direct the payment thereof out of the treasury of this state to such district attorneys as may be entitled to the same.

【This chapter is re-enacted without change of substance in § 17 of revision.】

(L. 1836, ch. 457; R. S., 8th ed., 619.)

§ 3. On every resale of any lands by the surveyor-general, pursuant to the forty-sixth section of title five of the aforesaid chapter, he shall execute a certificate thereof to the purchaser, specifying the terms of the sale, the amount paid by the purchaser, and that the lands are subject to redemption, pursuant to the provisions of this act; and in case the premises shall be redeemed as hereinafter provided, the sale shall be void and of no effect.

【Section 3 is not re-enacted in form, but § 37 of revision acts as a substitute for it.】

§ 4. The original purchaser of any land so resold by the surveyor-general, his heirs or assigns, may redeem the same at any time within three months after such sale.

§ 5. The fourteenth section of title six of the aforesaid chapter, and the last clause of the fifteenth section of the same title, as amended by the second section of this act, shall apply to the redemption of lands sold by the surveyor-general.

【Sections 4 and 5 are not re-enacted.】

§ 6. If the premises resold shall not be redeemed, the purchaser shall complete the sale immediately after the expiration of the three months, by paying into the treasury the amount that may remain due on the land, and receiving a patent, or by executing the proper bond, and receiving a certificate of the sale.

【Section 6 is re-enacted in § 38 of revision, the three months allowed for redemption being omitted.】

§ 7. On completing the sale pursuant to the last section, the purchaser shall surrender the certificate mentioned in the third section of this act, and the new certificate to be issued by the surveyor-general shall state, in addition to the other matters required by law, the time when the sale was made, and that the lands have not been redeemed.

【Section 7 is not re-enacted.】

§ 8. No account for lands shall be opened at the comptroller's office for a less sum than fifty dollars.

【Section 8 is re-enacted without change of substance in § 34 of revision.】

§ 9. The act entitled "An act in relation to the sales of lands by the surveyor-general and attorney-general," passed May eleventh,

eighteen hundred and thirty-five, is hereby repealed, and this act shall take effect on the passage thereof.

**【Section 9 is not re-enacted.】**

(L. 1839, ch. 134; R. S., 8th ed., 619.)

Section 1. The commissioners of the land-office may require the attendance of any person as a witness on the part of the state, whenever in their opinion the interest of the state may render it proper, in relation to any application that is or may be pending before them; and for that purpose they may issue subpoenas, which shall be signed by their chairman for the time being, commanding any such person to appear and testify before them, relative to the subject of such application, and to bring forward and produce to them, any writings, books or papers, that may be designated in such subpoena in his possession, or within his control; and every person who, after being served with such subpoena and tendered the legal fees, shall without reasonable cause, refuse or neglect to appear and produce such writings, books or papers, or appearing, shall refuse to testify as to any facts within his knowledge relative to the subject matter of such application, shall forfeit one hundred dollars to the people of this state, and shall be liable to be committed to prison by the said commissioners until he shall submit to testify and produce such writing, books or papers; and all expenses necessarily incurred in procuring the attendance of any witness and his legal fees, upon being certified by the said commissioners, shall be paid by the treasurer on the warrant of the comptroller.

**【This chapter is not re-enacted in form, but § 9 of revision authorizes the commissioners to "take testimony and proofs in any matter or application before them," and § 843 of the Code of Civil Procedure authorizes a member of the commission to administer an oath in such cases. The manner of issuing and serving subpoenas is taken care of by the Code of Civ. Pro., § 852. et seq.】**

(L. 1841, ch. 70; R. S., 8th ed., 620.)

Section 1. Whenever any person shall pay in full for any part of a lot sold by the surveyor-general of this state, and the same shall be certified by the comptroller, according to the thirty-eighth section of article third of title third of the eighth chapter of the first part of the Revised Statutes, it shall be the duty of the comptroller to endorse the portion of principal so paid upon the obligation executed by the purchaser for the whole lot, and letters patent for the part so paid in full may be issued.

**【Section 1 is re-enacted without change of substance in § 35 of revision.】**

(L. 1841, ch. 70; R. S., 8th ed., 620.)

§ 2. All grants heretofore made by the commissioners of the land-office of parts of lots, for which payments were made and certified in the manner prescribed by law are hereby confirmed.

[Section 2 is re-enacted without change of substance in § 11 of revision.]

(L. 1850, ch. 283; R. S., 8th ed., 633.)

§ 2. The powers conferred on the commissioners of the land-office by the first section of this act, are hereby extended to lands under water, and between high and low water mark in and adjacent to and surrounding Long Island, and to all that part of the county of Westchester, lying on the East or Hudson river or Long Island sound; but no grant made under this act shall extend beyond any permanent exterior water line, established by law, and nothing contained in this act shall authorize the commissioners of the land-office to grant any lands under water belonging to the mayor, aldermen and commonalty of the city of New York, nor to interfere with any property, rights or franchises of said corporation of the city of New York, or interfere with the rights of the Hudson river railroad company.

[Section 1 amends part I, ch. 9, title 5, § 67 of Revised Statutes, and is re-enacted in § 70 of revision, without change of substance.

Section 2 is also re-enacted without change of substance in § 70 of revision.]

(L. 1867, ch. 943; R. S., 8th ed., 819.)

Section 1. In all cases in which a person or persons shall have discovered a mine or mines, and become entitled to work the same pursuant to title eleven, chapter nine, part first of the revised statutes, and such person or persons shall form a corporation pursuant to chapter forty of the laws of eighteen hundred and forty-eight, and the several acts subsequent thereto and amendatory thereof, if the consent in writing to enter upon and break up the lands of any person in or upon whose lands said mine or mines are found shall be refused, or can not be obtained by agreement, or by reason of the infancy or the absence of such person from the state, or other legal disability of the owners of such lands, the said corporation so formed may enter upon and break up the lands of such person for the purpose of working such mine or mines in the manner hereinafter provided, and the right and easement so to do shall be deemed granted for public use, and for the public purpose of obtaining minerals reserved to the state; and the said right and easement are hereby granted to the corporation so formed, on their filing with the commissioners of the land-office a full description of the location of such lands and obtaining a grant thereof from said commis-

(L. 1867, ch. 943; R. S., 8th ed., 819.)

sioners, who are hereby authorized to make such grant and file the terms thereof.

**[Section 1 is re-enacted without change of substance in § 85 of revision.]**

§ 2. The said company entitled to work such mines may file a petition in the supreme court of the state, setting forth the facts upon which they claim such right and the reasons which prevent their entering upon the land necessary for their mining operations; and upon such petition the court may appoint three disinterested persons as commissioners to examine into the matter, ascertain and fix the damages aforesaid, and report to the court. Notice of the filing of such petition shall be published in one of the papers printed in the county, or in each of the counties where the mine or mines are situated, and in the state paper, and a copy of such notice shall be served personally upon the owners of the land, or, if they are infants, upon their guardians, or if lunatics or under any other legal disability, on the committee having charge of them and their property. And the publication of such notice in the state paper shall be deemed a sufficient notice to such owners as are residents in other states or in other countries, or are temporarily absent from the state, provided that when the actual residence of such absentee is known or can be ascertained, a copy of such notice and petition shall be sent them by mail. All the parties interested shall be entitled to a hearing before such commissioners, at such time or times as said commissioners shall appoint. The report of the commissioners shall state:

1. The existence of the mine or mines proposed to be worked.
2. The names of the parties owning the land in which the mine or mines are situated, and the owners of the adjacent lands, so far as they are affected by the application, and the nature and value of their interest in the same individually. A map of such lands, from actual survey by metes and bounds, shall accompany the report.
3. An estimate of the damages to such owners from the contemplated use and occupation of their lands.
4. Such other information as the court may direct.

§ 3. The report of the commissioners, shall be made within a reasonable time, to be fixed by the court. An order shall be made in the discretion of the court, either denying the petition or granting it, and determining the quantity of land necessary for working the mine or mines, the damages to property by taking possession thereof, and the annual rent or the compensation to be paid to the owner, lessee or occupant thereof so long as the use and occupation shall continue. And thereupon the company

(L. 1867, ch. 943; R. S. 8th ed., 819.)

in whose favor the order shall be made, upon payment of the damages, and upon entering into an agreement, to be approved by the court, to pay the annual rent or the compensation and damages thus determined, shall have the right to enter upon and occupy and use the land set apart by such order, so long as they or their assignees shall work the said mine or mines and shall pay the said annual rent or compensation.

§ 4. If the parties owning the land are infants or otherwise incompetent to act, the court shall appoint guardians to take care of their interests, and shall direct how any damages assessed, or compensation or rents to become due shall be paid and invested for their benefit.

【Sections 2--4 are not re-enacted. The provisions of these sections are taken care of by the Condemnation Law (L. 1890, ch. 95), which now forms a part of the Code of Civil Procedure.】

(L. 1869, ch. 196; R. S., 8th ed., 620.)

Section 1. Whenever the commissioners of the land-office by any existing statute have power to make a grant of any lands or interest therein to any party, they shall have power summarily to inquire into the right of such party thereto, upon such proof as by regulation they shall prescribe; but this act shall not apply to grants of land under water.

【This chapter is re-enacted in § 9 of revision, with the following change: The power to summarily inquire is extended to grants of lands under water, as there does not now appear to be any reason for the exception and the power conferred might prove to be of advantage to the state.】

(L. 1876, ch. 297; R. S., 8th ed., 631.)

Section 1. No grant or lease of any of the islands in Lake George or of any land on any of said islands shall be made by the commissioners of the land-office or by any board or officer of the state, until the further direction of the legislature, and any such grant or lease hereafter made without such express direction of the legislature shall be null and void.

【This chapter is re-enacted in § 14 of revision, except that the provision making void such grant unless made by express direction of the legislature is omitted as unnecessary, and the words "or by any board or officer of the State," are omitted to avoid possible conflict with the Forest Preserve Law.】

(L. 1877, ch. 359; R. S., 8th ed., 631.)

Section 1. The commissioners of the land-office are hereby authorized to sell and convey at private contract and sale, all the right,

(L. 1877, ch. 359; R. S. 8th ed. 631.)

title and interest of the people of the state of New York, to any lands in the county of Clinton, on such terms as shall be for the best interests of the state. Provided, however, that any such sale or sales shall be confined to land from which the timber has been removed and to actual settlers and in tracks of not over two hundred acres in one parcel.

§ 2. If any part of the price is unpaid at the time the grant is executed, the payment of it with interest at the rate of seven per cent per annum, shall be secured by a mortgage upon the land sold, and upon default of payment thereof of principal or interest, then the said commissioners are hereby authorized to foreclose said mortgage by a sale of said land.

§ 3. No sales under the provisions of this act shall be made except upon the recommendation of the comptroller of this state.

【This chapter is repealed, but not re-enacted. Private sales are not authorized and this act apparently conflicts with the Forest Preserve Law. (L. 1893. ch. 332.)】

(L. 1881. ch. 605; R. S., 8th ed., 632.)

Section 1. In cases where the commissioners of the land-office may by resolution have decided to grant any application for a grant of lands under water, and at the time of the adoption of such resolution the necessary jurisdictional facts existed to authorize such grant, and in cases where sales have been lawfully made, or directed to be made, by said commissioners of the lands of the state, of any description, and by reason of accidental omission or manifest error the patent may not have been actually issued, or may have been issued to the applicant deficient or manifestly erroneous in description or otherwise, the said commissioners of the land-office may in their discretion, and on such terms as may seem to them proper, caused to be issued to said applicant, or to persons deriving claim or title by or through conveyances from him subsequent to the passage of such resolution, releases or confirmatory grants of such lands, or any parts thereof, which releases or confirmatory grants shall vest in the grantees therein named respectively, such right and estate, to the extent of the right or title of the state therein, in said lands, or parts thereof, as shall be therein named.

【This chapter is re-enacted without change of substance in § 10 of revision.】

(L. 1881. ch. 625; R. S., 8th ed., 632.)

Section 1. All patents of lands heretofore issued pursuant to resolutions of the commissioners of the land-office, and sold by

(L. 1881, ch. 625; R. S. 8th ed. 632.)

them at private sale to purchasers in good faith, purporting to convey the right, title and interest of the people of this state in and to any lands in this state, are hereby ratified and confirmed, to as full an extent as though the same had been sold at public auction, according to law; provided the same does not refer to any lands under water in the bay or harbor of New York or adjacent thereto.

§ 2. This act shall not be construed to affect any existing suit, or to impair, release or discharge any right, claim or interest of any person in and to said lands.

【This chapter is re-enacted without change of substance in § 11 of revision.】

(L. 1882, ch. 192; R. S., 8th ed., 632.)

Section 1. The tract of land known as Esopus island, situated in Dutchess county, opposite the town of Hyde Park in the Hudson river, about one mile north of the village of Hyde Park, is reserved and withdrawn from settlement, occupancy, lease or sale under the laws of the state, and dedicated and set apart in order to preserve it as a distinguished feature of beauty in the natural scenery in its locality for the benefit and enjoyment of the people: but all the powers now vested in the land commissioners by statute in regard to the protection of the public lands of the state from trespass are hereby continued to said land commissioners in regard to said island. (Thus amended by L. 1884, chap. 42.)

【This chapter is re-enacted without change of substance in § 15 of revision.】

(L. 1883, ch. 336; R. S., 8th ed., 644.)

Section 1. Within ten days after the passage of this act, there shall be appointed by the governor, by and with the consent of the senate, five commissioners, all of whom shall be residents of the state of New York, who are hereby appointed and constituted a board of commissioners by the name and style of "The Commissioners of the State Reservation at Niagara." Said commissioners shall hold office for the term of five years from and after the passage of this act, and until others are appointed in their places. No member of said board shall receive any compensation for his services as commissioner, but each commissioner shall be entitled to receive his actual disbursements for his expenses in performing the duties of his office. In case any of the persons so appointed as above will not undertake the office of this commission, or in case of a vacancy on said board, such vacancy shall

(L. 1883, ch. 336; R. S., 8th ed., 644.)

be filled by the governor, and the person so appointed shall hold his office for the term of five years from the date of his appointment and until another shall be appointed in his place.

[Section 1 is re-enacted without change of substance in § 90 of revision.]

§ 2. The said board shall have power to select and locate such lands in the village of Niagara Falls and the county of Niagara and the state of New York as may in their opinion be proper and necessary, to be reserved for the purpose of preserving the scenery of the falls of Niagara, and of restoring the said scenery to its natural condition. Before any proceedings shall be had or taken for acquiring the title to any of the said lands, the said commissioners shall cause to be made a map of the land, by the state engineer and surveyor, which they shall determine to take, which shall be certified by a majority of said commissioners and filed in the office of the secretary of state and in the office of the clerk of the county of Niagara.

[Repealed without re-enactment because temporary and obsolete.]

§ 3. The said commissioners shall hold their first meeting at twelve o'clock, noon, at the office of the secretary of state, on such day as shall be named by said secretary of state, and within thirty days after the passage of this act. The said commissioners shall at said meeting choose a president of said board who shall be a member thereof, and shall appoint some person to act as the treasurer and secretary of said board. After the filing of the said map as above required, the said commissioners shall publish for twenty successive week-days in the state paper, and in a newspaper printed and published in the county of Niagara, a notice declaring that the state of New York intends to take and appropriate the lands described by the said maps, and acquire title thereto, and that the said commissioners intend to apply to the supreme court, at a special term thereof, to be held in the eighth judicial district, for the appointment of three freeholders, residents of the state of New York, to act as commissioners of appraisement, to ascertain and report the just compensation to be paid to the person or persons or corporation owning or having any interest in said property.

[This section is repealed without re-enactment as temporary and obsolete.]

§ 4. Upon the day designated in the said notice, or on some other day to be named by the said court, the said court shall hear the application of the said commissioners, and shall appoint three commissioners of appraisement for the purpose aforesaid. And in

(L. 1883, ch. 336; R. S., 8th ed., 646.)

case any commissioner of appraisement shall decline to serve, the said court may, on application of said board of commissioners of the State Reservation at Niagara, upon notice of such vacancy and application to be published in a newspaper in the county of Niagara for ten successive week-days, appoint another in his place. (Thus amended by L. 1884, chap. 109.)

§ 5. The commissioners of appraisement so appointed shall, before they enter upon their duties, take and subscribe an oath, to be administered by some person authorized to administer oaths, faithfully to execute their duties according to the best of their ability. They shall give notice of the time and place of the meeting to view the said property, by publishing the same in a newspaper printed and published in the county of Niagara, for twelve successive week-days.

§ 6. The commissioners shall together view such property and shall receive any legal evidence as to the compensation that should be made therefor, and may adjourn from time to time, and one commissioner in the absence of the others shall have power to adjourn. They shall ascertain and award to the respective owners of the property to be taken, and to all persons and corporations interested therein, such compensation therefor as in their opinion shall be just and proper, and in fixing the amount of such compensation said commissioners shall not make any allowance or deduction on account of any real or supposed benefits which the parties interested may derive from the said state reservation or improvement for which said lands are to be taken. The report of the said commissioners of appraisement, signed by a majority of said commissioners, shall be filed in the office of the clerk of Niagara county as soon as completed, and said report shall be made and filed within one year from the time of their appointment. Their minutes of testimony taken by them, if any, shall be attached to and filed with their said report and form a part thereof. Such minutes of testimony may, in the discretion of the said commissioners of appraisement, be taken by a stenographer to be appointed by them, and it shall not be necessary that the witnesses giving such testimony sign the same. (Thus amended by L. 1884, chap. 109.)

§ 7. After the report of the said commissioners of appraisement shall be so filed, the board of commissioners of the State Reservation at Niagara shall give notice, by publishing the same in ten successive numbers of some newspaper printed and published in the said county of Niagara, that they will on a day to be specified in said notice apply to the said supreme court for an order confirming the said report, and on the day so appointed the said

(L. 1883, ch. 336; R. S., 8th ed., 646.)

court, upon being furnished with proof of the due publication of said notice as above provided, shall confirm said report, and make an order containing a recital of the substance of the proceedings in the matter of the appraisement, and a description of the real estate appraised, for which compensation is to be made, and shall also direct to whom the money is to be paid.

§ 8. A certified copy of the order so to be made as aforesaid shall be recorded at full length in the office of the clerk of the county of Niagara, and also in the office of the secretary of state.

§ 9. Within twenty days after the confirmation of the report of the commissioners, as provided for in the seventh section of this act, any party may appeal by notice in writing to the other to the supreme court from the appraisal and report of the commissioners. Such appeal shall be heard by the supreme court at any general term of the fourth department on such notice thereof being given according to the rules and practice of said court. On the hearing of such appeal the court may direct a new appraisal before the same or new commissioners in its discretion. The second report shall be final and conclusive on all the parties interested. Provided, however, that the state shall not take possession of the said appraised premises until the amount awarded for the same shall have been duly appropriated by act of the legislature of this state for this purpose.

§ 10. If there should be diverse and conflicting claimants to the money or to any part of it, to be paid as compensation for the real estate taken for the purpose aforesaid, the court may direct the moneys to be paid into court, and may determine who is entitled to the same and direct to whom the same shall be paid, and may in its discretion order a reference to ascertain the facts upon which said determination and order are to be made.

§ 11. The said court shall have power at any time to amend any defect or informality in any of the proceedings to acquire title to the said land, as may be necessary, and also to appoint other commissioners of appraisement in place of any who should die, or refuse or neglect to serve or be incapable of serving upon like notice as required by section four of this act, in like cases of neglect or refusal to serve.

§ 12. If at any time after an attempt to acquire title by compensation as aforesaid it should be found that the title attempted to be acquired is defective, the said board of commissioners of the State Reservation at Niagara shall proceed anew to acquire or perfect such title in the manner hereinbefore set forth, and as if no appraisement had been made.

(L. 1883, ch. 336; R. S., 8th ed., 646.)

§ 13. After the proceedings herein provided for, for the purpose of acquiring title by the state to the said lands, shall have been concluded, the said board of commissioners of the State Reservation at Niagara shall report such proceedings, and all other actions by them taken, together with the amounts awarded by the said commissioners of appraisement, to the legislature of this state.

§ 14. It is further provided that in case the legislature shall fail to make an appropriation to pay the owners for the lands which may be selected and located by the said commissioners of the State Reservation at Niagara pursuant to the provisions hereof within two years after the passage of this act, all the proceedings which may have been taken for acquiring the title to the said lands shall be void and of no effect, but in such case the comptroller shall pay to the parties whose lands have been condemned in pursuance of the provisions of this act the reasonable costs and expenses incurred by them in such proceedings, the amount of such costs and expenses to be fixed and allowed by the attorney-general and to be paid out of any moneys in the treasury not otherwise appropriated.

【Sections 4-14 are repealed without re-enactment, because temporary and obsolete.】

(L. 1883, ch. 470; R. S., 8th ed., 620.)

Section 1. Whenever the state of New York owns an undivided interest with any person in any real estate within this state, or holds and is in possession of any such real property, as joint tenant or tenant in common with any person within this state who has an estate of freehold therein, any such person may, upon obtaining the consent in writing of the comptroller thereto, maintain an action for the partition of said property according to the respective rights of the parties interested therein, and for a sale thereof if it appears that a partition cannot be made without great prejudice to the owners, in the same manner as if the state were not entitled to exemption from legal proceedings and with the same force and effect as in other cases, except no costs shall follow judgment thereon. A copy of the summons and complaint in such action shall be served upon the comptroller of the state and it shall be his duty to deliver the same to the attorney-general for proper appearance for the state.

【Section 1 is re-enacted in § 6 of revision. The only change consists in an exception of the forest preserve from its provisions. Partition of the forest preserve is provided for by L. 1893, ch. 332, § 105.】

(L. 1883, ch. 470; R. S., 8th ed., 620.)

§ 2. In case any forest lands situated in the counties of Hamilton, Herkimer, St. Lawrence, Franklin, Essex, Clinton, Saratoga, Fulton or Lewis, in which the state is a joint owner or tenant in common with any person or persons, is sold in pursuance of a judgment of the court, as provided in section one of this act, the comptroller shall in behalf of the state attend the sale of said lands and purchase the same for the state, if said lands can, in the judgment of the comptroller be purchased at their fair value.

§ 3. For the purpose of paying for lands purchased upon partition sales, as provided in section three of this act, the sum of ten thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any funds of the state not otherwise appropriated, such sums to be paid by the treasurer of the state upon the warrants of the comptroller. In case the funds hereinbefore appropriated shall at the date of entry of a judgment of partition, as herein provided, be exhausted, the court shall, upon application of the attorney-general, direct that no sale be made until the expiration of two months after adjournment of the next session thereafter of the legislature.

**[Sections 2 and 3 are not re-enacted. The powers conferred on the forest commission by the Forest Preserve Law sufficiently cover the former and the latter is obsolete.]**

§ 4. The commissioners of the land-office may, in their discretion sell any lands which have been any part of the canal lands of this state and which have been or may be determined and officially declared by the canal board to be abandoned by the state for canal purposes, and also any lands to which the state has acquired title by purchase, on the foreclosure of mortgages taken by any loan commissioner on the loan of certain United States deposit funds, or any loan of money authorized by this state, and also any lands lying within the corporate limits of any city or village and which has not been devoted by statute to some public use. The commissioners of the land-office shall have no power to lease any forest lands lying within the counties of Saint Lawrence, Franklin, Lewis, Hamilton, Herkimer, Essex, Fulton, Saratoga and Warren.

**[Section 4 is not re-enacted in form, but §§ 30 and 33 of revision cover its provisions, except the last sentence, which is not re-enacted, the subject being provided for by the Forest Preserve Law.]**

§ 5. The commissioners of the land-office are hereby authorized to sell and convey at private contract and sale all the right, title and interest of the people of the state of New York to any lands in the county of Clinton, on such terms as shall be for the best interests of

the state; provided, however, that any such sale or sales shall be confined to lands from which the timber has been removed, and to actual settlers, and in tracts of not over two hundred acres in one parcel; and provided further such sales shall be confined to lands purchased for prison purposes. If any part of the price is unpaid at the time the grant is executed the payment of it with interest at the rate of six per cent per annum shall be secured by mortgage upon the land sold, and upon default of payment thereof of principal or interest, then the said commissioners are hereby authorized to foreclose said mortgage by sale of said land. No sale under the provisions of this act shall be made, except upon the recommendation of the comptroller of this state.

【Section 5 is not re-enacted. It apparently conflicts with the Forest Preserve Law.】

(L. 1884, ch. 109; R. S., 8th ed., 647.)

Sections 1 and 2 amend L. 1883, chap. 336.

§ 3. The said board of commissioners of the State Reservation at Niagara shall, from time to time, report to the legislature upon the progress and condition of their work, with a statement of their expenses, and such recommendations as they shall see fit to make.

【Section 3 is not re-enacted in form, but § 97 of revision is a substitute for it.】

(L. 1885, ch. 182; R. S., 8th ed., 647.)

§ 3. The lands for the payment of awards for which this act provides shall be known as "The State Reservation at Niagara;" they shall forever be reserved by the state for the purpose of restoring the scenery of the falls of Niagara to, and preserving it in its natural condition; they shall forever be kept open and free of access to all mankind without fee, charge or expense to any person for entering upon or passing to or over any part thereof.

【This section is re-enacted without change of substance in § 93 of revision.】

(L. 1885, ch. 286; R. S., 8th ed., 647.)

Section 1. The State Reservation at Niagara shall be under the control and management of the commissioners of the State Reservation at Niagara and their successors in office. A majority of said commissioners shall constitute a quorum for the transaction of

(L. 1885, ch. 286; R. S., 8th ed., 648.)

business. Said commissioners shall have power to lay out, manage and maintain said reservation and make and enforce ordinances, by-laws, rules and regulations necessary to effect the purpose thereof and for the orderly transaction of business not inconsistent with the laws of this state; to fix the prices to be charged by drivers of public conveyances for carrying persons, for hire within the limits of said reservation; to appoint a superintendent and to employ such other persons as may be needed, one or more of whom, to be designated by the commissioners, shall have the powers and may perform the duties of a police constable in criminal cases. Said commissioners shall also have the power to fix the compensation of the persons who may be appointed or employed by them. But no debt or obligation shall be created by said commissioners exceeding the amount of moneys at the time at their disposal. No one or more of said commissioners, nor any other person shall have power to create any debt, obligation, claim or liability for or on account of said commissioners except by the express authority of said commissioners conferred at a meeting thereof. On the first day of October, eighteen hundred and eighty-seven, the said commissioners shall pay into the treasury of the state all moneys which may be in their hands as such commissioners, and shall on the first day of each and every month thereafter pay into the treasury of the state all receipts and earnings of whatever nature, other than receipts from the state treasurer. (Thus amended by L. 1887, chap. 656.)

[Section 1 is re-enacted without change of substance in § 92 of revision.]

§ 2. The said board shall sell and cause to be removed from said reservation all structures, machinery and materials thereon belonging to the state, not required to afford free and convenient access to said reservation, nor for restoring the scenery of the falls of Niagara, to and preserving it in its natural condition, and up to the first of October, eighteen hundred and eighty-seven, may apply the proceeds of such sales to the payment of the expenses of such restoration and the maintenance of said reservation. (Thus amended by L. 1887, chap. 656.)

[Section 2 is re-enacted without change of substance in § 94 of revision.]

§ 3. The by-laws, ordinances, rules and regulations adopted by said commissioners shall, within ten days after adoption, be published at least twice in some paper published in the village of Niagara Falls. Any person offending against any of said ordinances, by-laws, rules and regulations shall be deemed guilty of a

(L. 1885, ch. 286; R. S., 8th ed., 648.)

misdeemeanor and, on conviction, may be punished by a fine not exceeding one hundred dollars or by imprisonment not exceeding thirty days, or by both such fine and imprisonment.

【The first sentence of § 3 is re-enacted without change of substance in § 92 of revision. The section is not repealed because of the penal provision not here re-enacted.】

§ 4. Real and personal property may be granted, conveyed, bequeathed or devised to and taken by the state of New York, in aid of the purposes of said reservation or to increase the same and upon such trusts or conditions as may be prescribed by the grantors or devisors thereof, provided the same be accepted or agreed to in writing by the said commissioners. All such property shall be managed and controlled by the said commissioners, and the rents, issues and profits thereof shall be turned into the state treasury as provided for above, except where said rents, issues and profits were specifically devised or bequeathed to be used for a specific and definite purpose. (Thus amended by L. 1887, chap. 656.)

【Section 4 is re-enacted without change of substance in § 95 of revision.】

§ 5. In the month of January of every year the said commissioners shall make to the legislature a report of their proceedings and a statement in detail of all their receipts and expenditures for the next preceding fiscal year. They shall also submit therewith an estimate of the work necessary to be done and of the expenses of maintaining the said reservation for the ensuing fiscal year, and shall make such recommendations as they shall see fit. And after October first, eighteen hundred and eighty-seven, the said commissioners shall, quarterly, on January first, April first, July first and October first of each fiscal year send to the comptroller a detailed, itemized and particular account of all receipts and expenditures, with sub-vouchers for the items thereof, for the preceding quarter, such accounts shall be verified by the oath or affirmation of the said commissioners or their treasurer. (Thus amended by L. 1887, chap. 656.)

【Section 5 is re-enacted without change of substance in § 96 of revision.】

§ 6. The treasurer appointed by the commissioners, pursuant to the provisions of chapter three hundred and thirty-six of the laws of eighteen hundred and eighty-three shall give a bond to the people of the state with two or more sufficient sureties to be approved by the comptroller in such sum as the commissioners shall determine, to the effect that he will faithfully perform the duties of his office and account for all moneys coming into his hands by virtue

(L. 1885, ch. 286; R. S., 8th ed., 649.)

of his office as treasurer Said bond shall be filed in the office of the secretary of state. (Thus amended by L. 1887, chap. 656.)

【Section 6 is not re-enacted in form. A portion of it is covered by § 91 of revision, and the remainder by the Public Officers Law, § 11.】

§ 7. Any moneys appropriated for caring for and maintaining said State Reservation at Niagara, and carrying out the provisions of this act, shall be paid to the order of the treasurer of the said commission by the treasurer of the state upon the warrant of the comptroller. But no warrant shall be issued until the amounts claimed shall have been audited and allowed by the comptroller, who is hereby authorized to determine the same, except that upon the requisition of the treasurer of the said commission the comptroller may advance out of said sum appropriated whatever moneys he may deem necessary for the proper carrying out of the provisions of this act. (Added by L. 1887, chap. 656.)

【Section 7 is re-enacted without change of substance in § 97 of revision.】

(L. 1886, ch. 435; R. S., 8th ed., 636.)

Section 1. The persons or officials authorized to assess lands for any local improvements or purposes whatsoever, are hereby directed and required to serve on the comptroller of this state, at least three weeks prior to the confirmation of the same, a written notification of the assessment by them of any state lands, which notification shall show the purpose for which the assessment is made, the law authorizing the same and the state lands and the amounts for which they are assessed, and no such assessment shall be legal unless such notification be duly served. No fee, interest, penalty or expense shall be added to or accrue on any such assessment against state lands, nor shall such lands be sold therefor, but such assessment shall, if confirmed and uncontested, be paid and discharged by the state comptroller out of any moneys appropriated therefor.

§ 2. All sales of state lands for unpaid taxes or assessments for any local improvements or purposes, and all sales of such lands by any municipal or village authority, whether the title thereto be derived from a tax sale or otherwise, for any unpaid tax levied thereon while such title vested in the state, are hereby vacated and declared void.

【This chapter is re-enacted without change of substance in § 20 of revision.】

(L. 1890, ch. 279; R. S., 8th ed. [Supp.], 3443.)

Section 1. A petition for the release to the petitioner of any interest in the real property which has been escheated to the state by reason of the alienage or the failure of heirs of any person may be presented to the commissioners of the land office within forty years after such escheat, by any person who would have succeeded to such interest, but for such alienage or the existing of any other alien heir, or by the stepfather, stepmother, or adopted child, or a surviving husband or widow, or their heirs or assigns, of any person whose interest has so escheated to the state by reason of the failure of heirs. The petition shall be verified by each petitioner in the same manner as a pleading in a court of record may be verified, and shall allege:

1. The name and residence of each person owning any interest in such real property immediately prior to the escheat.

2. The name and residence of each petitioner and his relationship to any such owner.

3. The name and residence of any person who would have succeeded to any such interest but for the alienage of any person, or but for the existence of any alien.

4. The description and value of the data of the verification of the petition of such real property sought to be released.

5. The description and value at the date of the verification of the petition of all the property of every such owner which shall have escheated to the people of the state by reason of such alienage or lack of lawful heirs, and which shall not then have been released or conveyed by the state.

6. The name and residence of each person having or claiming an interest in such real property at the date of the verification of the petition and the nature and value of such interest.

7. Any special facts or circumstances by reason of which it is claimed that such interest should be released to the petitioner. The petition may be filed within sixty days after its verification with the secretary of state who shall present it to the commissioners of the land office at their next meeting thereafter, and who may call a meeting of the commissioners to consider the same. (Thus amended by L. 1893, chap. 191.)

[Section 1 is re-enacted without change of substance in § 60 of revision.]

§ 2. The commissioners of the land office shall thereupon determine the truth of the allegations of the petition and the value of the real property sought to be released, and the value of all the

(L. 1890, ch. 279; R. S., 8th ed. [Supp.], 3441.)

property of every such owner which shall have been escheated to the state and shall not have been conveyed or released by the state, and for that purpose the commissioners shall have all the powers of a court of record held in the county in which the meeting of the commissioners shall be held, to administer oaths, issue subpoenas and to compel the attendance and testimony of witnesses before them. They may hear witnesses or affidavits produced before them by the petitioners, and may require the petitioners as a condition of determining the petition to produce or advance the expense of producing before the commissioners such witnesses as the commissioners may designate. The witnesses shall be entitled to the same fees as witnesses subpoenaed to attend a court of record, to be paid in the same manner.

**[Section 2 is partly re-enacted in § 61 of revision while the remainder is covered by Code of Civ. Pro., §§ 843 and 852, et seq.]**

§ 3. If the value at the date of the petition, as determined by the commissioners, of all the property of any such owner which shall have escheated to the state and shall not have been conveyed or released by the state, shall not exceed one hundred thousand dollars, and of the property sought to be released shall not exceed ten thousand dollars, the commissioners may execute, in the name of the state, a conveyance, upon such terms and conditions as the commissioners shall deem just, releasing to such petitioners the interest of the state so acquired in such real property so sought to be released. A conveyance so made to any such petitioner who is a parent, child, surviving husband or widow of any such owner, of an interest therein immediately prior to the escheat, or the heirs at law of any such surviving husband or widow, shall be without consideration. The conveyance shall contain a brief recital of the determinations required to be made by the commissioners upon the hearing of the petition and of all the terms and conditions upon which the conveyance is made. (Thus amended by L. 1893, chap. 191.)

**[Section 3 is re-enacted without change of substance in §§ 62, 63, 64, 65 of revision, respectively.]**

§ 4. No such conveyance shall impair, or affect any right, title or interest or estate in or to the lands thereby released, of any heir at law, devisee, grantee, mortgagee or creditor of any person having an interest in the real property released immediately prior to the escheat thereof, or of any person having any lien or incumbrance thereon, through, under or by any person having any interest therein immediately prior to the escheat.

**[Section 4 is re-enacted without change of substance in §§ 62, 63, 64, 65 of revision, respectively.]**

(L. 1890, ch. 279; R. S., 8th ed. [Supp., 3444.]

§ 5. Any person may file at any time with the secretary of state a protest stating his name, residence and post-office address, against the conveyance or release by the state of any interest of the people of the state acquired by escheat in any real property in such protest described. The secretary shall present such protest to the commissioners of the land office at their next meeting thereafter, and the commissioners shall, if practicable, cause a notice of their hearing of any petition for the conveyance or release of any such real property to be given to each person filing such protest, in such manner as will enable such person to appear before them upon such hearing, and they may in their discretion cause like notice to be given to any other person of their hearing of any petition for the release by the state of any interest of the people of the state in any real property acquired by escheat, or cause notice of such petition to be given generally by publication in a newspaper published in the county in which such real estate is situated.

【Section 5 is re-enacted without change of substance in §§ 62, 63, 64, 65 of revision, respectively.】

§ 6. All moneys received by the commissioners from any such petitioner on account of any such conveyance shall be paid by them forthwith to the state treasurer. The commissioners shall annually, in the month of January, report to the legislature their proceedings upon each petition presented under this act during the previous year, stating briefly all the facts required to be determined by them upon the hearing of such petition, the terms and conditions of each conveyance so made by them, the name of each grantee therein, and of all money received by them in pursuance thereof, and their reason for refusal of any such petition presented to them, and whether any petitioner declined to accept any such conveyance upon the terms and conditions fixed by the commissioners, and if the legislature be in session at the time of their refusal of any such petition, or of any such declination to accept such conveyance, the commissioners shall forthwith report to the legislature such petition and a like statement of their proceedings thereon.

【Section 6 is re-enacted without change of substance in §§ 62, 63, 64, 65 of revision, respectively.】

§ 7. Chapter two hundred and fifty-nine of the laws of eighteen hundred and twenty-nine is hereby repealed.

§ 8. This act shall take effect immediately.

(L. 1892, ch. 625; R. S., 8th ed. [Supp.], 3445.)

§ 2. The patents heretofore granted in the name of the people of the state of New York, pursuant to resolution of the commissioners of the land-office, adopted under and in pursuance of chapter two hundred and seventy-nine, laws of eighteen hundred and ninety, are hereby ratified and confirmed unto the patentees therein, their heirs or assigns.

【Section 2 is re-enacted without change of substance in § 69 of revision.】



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THE  
STATE FINANCE LAW.

CONTAINING

- I. COMMISSIONERS' DRAFT OF THE STATE FINANCE LAW.  
II. COMMISSIONERS' MEMORANDUM EXPLANATORY THEREOF.  
III APPENDIX TO THE STATE FINANCE LAW, CONTAINING THE  
LAWS PROPOSED TO BE REPEALED THEREBY.
-



COMMISSIONERS' DRAFT  
OF  
THE STATE FINANCE LAW.

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AN ACT relating to state finances, constituting chapter ten of  
the general laws.

*The People of the State of New York, represented in Senate  
and Assembly, do enact as follows:*

CHAPTER X OF THE GENERAL LAWS.

The State Finance Law.

- Article 1. General fiscal provisions. (§§ 1-36.)
2. The general fund. (§§ 50-51.)
  3. Canal fund and canal debt sinking fund. (§§ 60-66.)
  4. Education funds. (§§ 80-93.)
  5. Miscellaneous funds. (§§ 100-106.)

ARTICLE I.

General Fiscal Provisions.

- Section 1. Short title.
2. Fiscal year.
  3. Duties of treasurer.
  4. Duties of comptroller.
  5. Treasurer's checks and accounts.
  6. Custody of state securities.
  7. Examination of state securities.
  8. Deposit in banks.
  9. Monthly statement of balance in state depositories.
  10. Deposit of moneys by state officers.

Section 11. Deposit of moneys by charitable and benevolent institutions.

12. Proofs required upon audit by the comptroller.
13. Regulations for the transmission of public moneys.
14. Payments of moneys in the treasury not belonging to the state.
15. Temporary loans and revenue bonds.
16. New in place of lost certificates.
17. Forms of state accounts.
18. Itemized and quarterly accounts of public officers.
19. Inspection of supplies and entry in books.
20. Deposit in banks of moneys received by state institutions.
21. Annual inventory and report of institutions.
22. Rendition of accounts.
23. Statements of accounts not rendered.
24. Statements of accounts rendered.
25. Statement of joint accounts.
26. Other remedies preserved.
27. Foreclosures of mortgages by the state.
28. When comptroller shall bid in premises.
29. Conditions of sale.
30. Sale in parcels.
31. Separate accounts for lands purchased or mortgaged.
32. Discharge of mortgages by the state.
33. Payment of prior claims on state lands.
34. Surplus moneys on sale of lands mortgaged to the state.
35. Assignments of mortgages.
36. Compromise of old judgments and debts.

Section 1. Short title.—This chapter shall be known as the state finance law.

§ 2. Fiscal year.—Each fiscal year of the state shall begin with the first day of October and end with the next following thirtieth day of September. All books and accounts in the offices of the comptroller and treasurer shall be kept by fiscal years. All officers and persons required to render annual accounts to the

comptroller or treasurer shall close those accounts on the thirtieth day of September in each year, and render such accounts as soon thereafter as practicable, if no time is specially prescribed by law.

【L. 1831, ch. 320, §§ 24, 25, 26; R. S., 8th ed., p. 610.】

§ 3. Duties of treasurer.—The treasurer shall receive all moneys paid into the treasury of the state, pay all warrants drawn by the comptroller on the treasury, make no payment out of the treasury except on the warrant of the comptroller, and make a report to the legislature at its annual session, containing an exact statement of the balance in the treasury, at the close of the preceding fiscal year, with a summary of the receipts into and payments from the treasury during such year.

【R. S., pt. I, ch. VIII, tit. 4, §§ 1, 5, 6; R. S., 8th ed., p. 518. without change in substance.】

§ 4. Duties of comptroller.—The comptroller shall:

1. Superintend the fiscal concerns of the state.
2. Keep, audit and state all accounts in which the state is interested, and keep proper books accurately, showing their condition at all times.
3. Examine, audit and settle the accounts of all public officers and other persons indebted to the state, and certify the amount or balance due to the treasurer.
4. Examine, audit and liquidate the claims of all persons against the state, if payment thereof out of the treasury is provided for by law.
5. Draw warrants on the treasury for the payment of the moneys directed by law to be paid out of the treasury, but no such warrant shall be drawn unless authorized by law, and every such warrant shall refer to the law under which it is drawn.
6. Make a report to the legislature at its annual session, containing a complete statement of the funds of the state, its resources, public expenditures during the preceding fiscal year, a detailed estimate of the expenditures to be defrayed from the treasury for the fiscal year beginning October first following, a statement of each object of expenditure, the funds, if any, from which it is

to be defrayed, and of all claims against the state presented to him where no provision or an insufficient provision for the payment thereof has been made by law, with the facts relating thereto and his opinion thereon, and suggesting plans for the improvement and management of the public resources, and containing such other information and recommendations relating to the fiscal affairs of the state, as in his judgment should be communicated to the legislature.

7. Represent and vote for the state, either in person or by proxy at all meetings and on all occasions where the state is entitled to representation or vote as stockholder in a corporation or joint stock association;

[R. S., pt. I, ch. VIII, tit. 3, §§ 1, 13; R. S., 8th ed., p. 505; L. 1872, ch. 115; R. S., 8th ed., p. 515, without change in substance, except that subdiv. 8, of section 1 is omitted and made a part of § 22, post 131.]

§ 5. Treasurer's checks and accounts.—The comptroller shall countersign and enter in the proper books of his department all checks drawn by the treasurer and all receipts for money paid to the treasurer. No such receipt shall be evidence of payment unless so countersigned. He shall keep an account between the state and the treasurer, and therein charge the treasurer with the balance in the treasury when he came into office, and with all moneys received by him, and credit him with all warrants drawn on and paid by him. He shall draw, in favor of the treasurer, on all corporations or companies in which the state may own stock, for the dividends on such stock as they become due. He shall procure from the books of the banks in which the treasurer makes his deposits, monthly statements of the moneys received and paid out of the same on account of the treasurer. On the first Tuesday of every month, or oftener if he deem it necessary, he shall carefully examine the accounts of the debts and credits in the bank books kept by the treasurer. If he discovers any irregularity or deficiency therein, he shall, unless rectified or explained to his satisfaction, forthwith report the same to the governor.

[R. S., Pt. I, ch. VIII, tit. 3, §§ 4, 5, 6, 7, 8; R. S., 8th ed., p. 506, without change in substance.]

§ 6. Custody of state securities.—All leases, bonds, mortgages, certificates of stock and other securities belonging to the state, and all papers relating to the duties of the comptroller, or of the commissioners of the canal fund, or of the canal board, unless otherwise specially directed, shall be deposited in the office of the comptroller.

[R. S., pt. I, ch. VIII, tit. 3, § 16; R. S., 8th ed., p. 507, L. 1833, ch. 56, § 4; R. S., 8th ed., p. 508, consolidated with no change in substance.]

§ 7. Examination of state securities.—The comptroller, from time to time, shall examine the securities on which money may be due to the state, and make inquiries relating to the sufficiency of the security for the payment of such moneys. He shall require the immediate payment of all interest due, and the payment of such part of the principal as he deems necessary for the security and interest of the state.

[R. S., pt. I, ch. VIII, tit. 3, § 9; R. S., 8th ed., p. 506, with no change in substance.]

§ 8. Deposit in banks.—The state treasurer shall deposit all moneys coming to his hands on account of the state, except such as belong to the canal fund, within three days after receiving the same, in such banks in the cities of Albany and New York, as in the opinion of the comptroller and treasurer are secure and pay the highest rate of interest to the state for such deposits. The moneys so deposited shall be placed to the account of the treasurer. He shall keep a bank-book in which shall be entered his account of deposit in and moneys drawn from the banks in which deposits are made by him, which he shall exhibit to the comptroller for his inspection on the first Tuesday of every month and oftener if required. The treasurer shall not draw any moneys from such banks unless by checks subscribed by him as treasurer and countersigned by the comptroller. No moneys shall be paid by any such bank out of any such deposit except upon such checks. Every such bank shall transmit to the

comptroller monthly statements of all moneys received and paid by it on account of the treasurer.

[R. S., pt. I, ch. VIII, tit. 3, §§ 7, 10, 11, 12, 13; R. S., 8th ed., p. 519,

without change in substance.

Trust companies, doing a banking business, in pursuance of law, may be already included under the general term banks, but the commissioners prefer to submit to the Legislature without recommendation, the question whether such trust companies should be expressly authorized to receive state monies.]

§ 9. Monthly statement of balances in state depositories.—The state treasurer shall cause to be published in the state paper, on or before the tenth day of each month, a detailed statement of the balances in the several banks designated by any state officer or board as a depository of state funds. Such statement shall contain the name of each bank and the amount subject to draft at the close of the month preceding such publication. Similar statements shall be published in such paper by the comptroller, secretary of state, superintendent of the banking and insurance departments and the clerk of the court of appeals, who shall also certify to the state treasurer on or before the tenth day of January, April, July and October in each year, the amount on deposit at the close of the quarter preceding, in the banks designated by them respectively, and the amounts so certified shall be transferred to the general depository of state funds in the city of Albany, by check signed by the state treasurer and countersigned by the officer making the deposit.

[L. 1877, ch. 245; R. S., 8th ed., p. 1585,  
with no change in substance.]

§ 10. Deposit of moneys by state officers.—Every state officer or other person except the state treasurer, receiving or disbursing moneys belonging to the state, shall deposit and keep all the moneys received by him, deposited to his official credit in some responsible bank or banking house, to be designated by the comptroller, until such moneys are paid out or disbursed accord-

ing to law. Every such bank or banking house, when required by the comptroller, shall execute and file in his office an undertaking to the state in such sum and with such sureties as are required and approved by him, for the safekeeping and prompt payment on legal demand therefor of all such moneys held by or on deposit in such bank or banking house, with interest thereon, on daily or monthly balances at such rate as the comptroller fixes. Every such undertaking shall have indorsed thereon, or annexed thereto, the approval of the attorney-general as to its form.

[L. 1888, ch. 326; R. S., 8th ed., p. 535,  
without change in substance. The deposit of state funds  
by the state treasurer is provided for in section 8, ante.]

§ 11. Deposit of moneys by charitable and benevolent institutions.—The board of trustees or managers of each charitable or benevolent institution, supported wholly or partly by moneys received from the state or any municipal corporation thereof, shall designate, by resolution, to be entered upon their minutes, some incorporated national or state bank or trust company, as the depository of the funds of such institution; and the treasurer of such institution shall keep all the funds thereof which come into his possession deposited in his name as such treasurer in such bank or trust company.

[L. 1884, chap. 415; R. S., 8th ed., p. 2150,  
without change in substance.]

§ 12. Proofs required on audit by the comptroller.—The comptroller shall not draw his warrant for the payment of any sum appropriated, either in the annual appropriation bill, or the supply bill, or in any other appropriation bill, except for salaries\* and other expenditures and appropriations, the amounts of which are duly established and fixed by law, until the person demanding the same presents to him a detailed statement thereof in items and makes all reports required of him by law. If such statement is for services, it must show when, where and under what authority they were rendered. If for articles furnished, when and where they were furnished and under what authority. If for traveling

expenses, the distance traveled, the place of starting and destination, the duty or business for the performance of which the expenses were incurred, and the dates and items of each expenditure. If for transportation, furniture, blanks and other books purchased for the use of offices, binding, blanks, printing, stationery, postage, cleaning and other necessary and incidental expenses, a bill duly receipted must be attached to the statement. Every such statement must be verified by the person presenting the same to the effect that it is just, true and correct, that no part of the account therein stated has been paid, except as stated therein, and that the balance therein stated is actually due and owing. No payment shall be made to any salaried state officer or commissioner having an office established by law at the capitol, for personal expenses incurred by him while in the discharge of his duties as such officer or commissioner at Albany.

No manager, trustee or other officer of any state charitable or other institution, receiving moneys from the state treasury, in whole or in part, for the maintenance or support, shall be interested in any purchase or sale by any of such officers for any of such institutions.

**[L. 1891, ch. 144, last paragraph.**

Provisions similar to those contained in this section have, each year, been added to the general appropriation bills. The enactment of this section will render unnecessary the repetition of these provisions in future appropriation bills.]

§ 13. Regulations for the transmission of public moneys.—The comptroller may make such regulations and give such directions from time to time, respecting the transmission to the treasury of moneys belonging to the state from the several county treasurers and other public officers as in his judgment is most conducive to the interests of the state. He may, in his discretion, audit, allow and cause to be paid the expenses necessarily incurred under or in consequence of such regulations and directions or so much thereof as he deems equitable and just.

**[L. 1843, ch. 44; R. S., 8th ed., p. 508,  
without change in substance.]**

§ 14. Payments of moneys in the treasury not belonging to the state.—Moneys paid to the state treasurer or into the treasury of the state which do not belong to the state, under any law which authorizes their payment to a person entitled to the same, by order of the court or otherwise, and money paid into the treasury of the state by mistake and not on account of any unpaid taxes or debt due the state, and money overpaid to the state on account of taxes shall not be regarded as belonging to the treasury of the state or any of its funds, but may be paid by the treasurer to the person entitled thereto on the warrant of the comptroller.

[R. S. part I. ch. VIII. title 3. § 15; R. S., 8th ed., p. 507.  
L. 1843, ch. 179; R. S., 8th ed., p. 508,  
consolidated with no change in substance.]

§ 15. Temporary loans and revenue bonds.—From time to time, as the legal demands on the treasury render it necessary, the comptroller may make such temporary loans at a rate of interest not exceeding five per cent per annum, as are necessary to discharge such demands, and may issue transferable certificates of stock for the amount borrowed, with interest, payable quarterly, and the principal reimbursable at such time or times, not exceeding seven years, at which in his opinion, the treasury will be in a condition to pay the same, from the revenues of the state applicable to their payment, and so much of such revenues as will be sufficient to reimburse the amount borrowed, are pledged to that object. He may issue bonds in anticipation of the state tax, authorized to be levied for the current expenses of the government, not exceeding fifty per cent of such tax for any one year, payable on or before May fifteenth following the date of issue, and drawing interest at the least rate obtainable by him. The proceeds of such bonds shall be applied in payment of the current expenses of the government and to no other object. When received into the treasury so much as may be necessary of the taxes in anticipation of which any such bonds are issued, shall be applied exclusively to the payment of the principal and interest of such bonds. He shall include in his annual report, a detailed

statement of all such loans made and bonds issued during the year. and of his proceedings in relation thereto.

【R. S., Part I. ch. VIII, title 3, §§ 11, 12; R. S., 8th ed., pp. 506-7, L. 1835. ch. 52; R. S., 8th ed., p. 507;  
L. 1837, ch. 150, § 59; R. S., 8th ed., p. 586;  
L. 1880, ch. 100; R. S., 8th ed., p. 509;  
consolidated without change in substance.】

§ 16. New in place of lost certificates.—The comptroller may issue to the lawful owner of any certificate of stock, or of any bond issued by him in behalf of this state, which he is satisfied, by due proof filed in his office, has been lost or casually destroyed, a new certificate or bond, corresponding in date, number and amount with the certificate or bond so lost or destroyed, and expressing on its face that it is a renewed certificate or bond. No such renewed certificate shall be issued unless sufficient security is given to satisfy the lawful claim of any person to the original certificate or bond, or to any interest therein. The comptroller shall report annually to the legislature the number and amount of all renewed certificates or bonds so issued.

【L. 1857, ch. 721; R. S., 8th ed., p. 616,  
without change in substance.】

§ 17. Forms of state accounts.—The comptroller shall prepare a form of accounts to be observed in every state charitable institution, reformatory, house of refuge, industrial school, department, board or commission, which shall be accepted and followed by them respectively, after thirty days' notice thereof. Such forms shall include such a uniform method of bookkeeping, filing and rendering of accounts as may insure a uniform statement of purchase of like articles, whether by the pound, measure or otherwise, as the interests of the public service may require, and a uniform method of reporting in such institutions and departments, the amount and value of all produce and other articles of maintenance raised upon the lands of the state, and which may enter into the maintenance of such institution or department. All purchases for the use of any department, office or work of the state government shall be for cash. Each voucher, whether for a purchase or for

services or other charge shall be filled up at the time it is taken. Where payment is not made directly by the state treasurer or governor, proof in some proper form shall be furnished on oath that the voucher was so filled up at the time it was taken, and that the money mentioned therein to have been paid was in fact paid in cash or by check or draft on some specified bank.

[L. 1842, ch. 310; R. S., 8th ed., p. 532, as amended by L. 1855, ch. 535, § 3;

L. 1888, ch. 270, § 1; R. S., 8th ed., p. 2151. (Annual supply bill of 1888 and repeated in each subsequent year).

consolidated with change of substance.

That part of this section prescribing the forms of accounts of certain institutions appears in all annual supply bills. Its enactment in this general law will make the repetition of such a provision in future supply bills unnecessary.] .

§ 18. Itemized and quarterly accounts of public officers.—The proper officer of each state hospital, asylum, charitable or reformatory institution, the state commission in lunacy, the state board of charities, the state board of health, the commissioners of fisheries and the shore inspector shall, quarterly, on January first, April first, July first and October first of each fiscal year, render to the comptroller a detailed and itemized account of all receipts and expenditures of such hospital, asylum, institution, commission, board, commissioners or inspector, during the three months preceding. Such accounts shall be receipted and verified by the oath of the officer making the same, and give in detail the source of all receipts, including the sums received from any county, and be accompanied by original and proper vouchers covering the items of expenditures unless such vouchers have been previously filed with the comptroller or with the county treasurer or other officer entitled to the same.

[L. 1888, ch. 270, § 1; R. S., 8th ed., p. 2150 (Annual supply bill of 1888 and repeated in each subsequent year).]

§ 19. Inspection of supplies and entry in books.—The steward, clerk or bookkeeper in every such institution or department shall receive and examine all articles purchased or received for the

maintenance thereof, compare them with the bills for the same, ascertain whether they correspond in weight, quality or quantity, and inspect the supplies thus received. Such steward, clerk or bookkeeper shall enter each bill of goods thus received in the books of the institution or department at the time of receipt thereof. He shall make a full memorandum in the book of accounts of such institution of any difference in weight, quality or quantity of any article received from the bill thereof, and no goods or other articles of purchase or farm or garden production of lands of the institution shall be received unless so entered in such book with the proper bill, invoice or statement, according to the form of accounts and record prescribed by the comptroller. In accounts for repairs or new work, the name of each workman, the number of days employed and the rate and amount of wages paid to him shall be given. If contracts are made for repairs or new work, or for supplies, a duplicate thereof, with specifications, shall be filed with the comptroller.

【L. 1888, ch. 270, § 1; R. S., 8th ed., p. 2151, annual supply bill of 1888 and repeated in each subsequent year.】

§ 20. Deposit in banks of moneys received by state institutions.—Every state institution receiving moneys, in whole or in part, from the state treasury for maintenance, shall deposit all its funds in some bank or banking house at the best attainable interest, which shall give a bond with sufficient sureties, for the security of such deposit to be approved by the comptroller. All state institutions or departments, except charitable institutions, reformatories, houses of refuge, and state industrial schools, shall pay into the treasury, quarterly, all receipts and earnings other than receipts from the state treasury.

【L. 1888, ch. 270, § 1; R. S., 8th ed., p. 2150. Annual supply bill of 1888 and repeated in each subsequent year.】

§ 21. Annual inventory and report of institutions.—Every state charitable institution, reformatory, house of refuge and industrial school shall file with the comptroller annually, on or before October twentieth, a certified inventory of all articles of maintenance

on hand at the close of the preceding fiscal year, stating the kind and amount of each article. Every state charitable institution, reformatory, house of refuge, the state agricultural experiment station, the quarantine commissioners, and the shore inspector, shall report to the legislature in their annual report, an inventory of each article of property, stating kind and amount, except supplies for maintenance, belonging to the state in their possession on October first of each year.

[L. 1888, ch. 270, § 1; R. S., 8th ed., p. 2151. Annual supply bill of 1888 and repeated in each subsequent year.]

§ 22. Rendition of accounts.—The comptroller, from time to time, shall require all public officers and other persons receiving moneys or securities, or having the care and management of any property of the state, of which an account is or is required to be kept in his office, to render statements thereof to him; and all such officers or persons shall render such statements at such time and in such form as he requires, and at all times when required by law. He may require any one presenting to him an account or claim for audit or settlement, to be examined upon oath before him, touching such account or claim, as to any facts relating to its justness or correctness. He may issue a notice to any person receiving moneys of the state for which he does not account or the legal representatives of such a person, requiring an account and vouchers for the expenditure of such moneys to be rendered at a time to be fixed not less than sixty nor more than ninety days from the date of the notice. Such notice shall be served at least forty days before the time fixed therein for the rendition of such account by delivering a copy thereof to such person or representative or leaving such copy at his usual place of abode; and if such service is made by the sheriff of the county, where the person served resided, the certificate of such sheriff, and if made by any other person, the affidavit of such other person, shall be evidence of such service.

[R. S., pt. I, ch. VIII, tit. 3, §§ 2, 3, 19-22; R. S., 8th ed., p. 505-506, without change in substance.]

§ 23. Statements of accounts not rendered.—The comptroller shall state an account against every person who receives moneys belonging to the state for which he does not account when required, charging him with the amount received according to the best information which the comptroller may have in regard thereto, with interest at six per cent per annum from the time when the same was due and payable, and shall deliver a certified copy of such account to the attorney-general for prosecution, and such certified copy shall be presumptive evidence of the indebtedness of such person to the state for the amount stated therein. The person against whom an action is brought by the attorney-general on any such account, shall be liable for and pay the costs of the action whether final judgment therein shall be against him or in his favor, unless he is sued as the representative of the person originally accountable for such moneys.

[R. S., pt. I, ch. VIII, tit. 3, §§ 23, 24, 25; R. S., 8th ed., pp. 514, 5-5, without change in substance.]

§ 24. Statements of accounts rendered.—The comptroller shall immediately examine the accounts and vouchers rendered of every public officer or other person receiving moneys belonging to the state, and audit, adjust and make a statement thereof. If any necessary vouchers are wanting or defective, he shall give notice to such person to furnish proper vouchers within not less than sixty nor more than ninety days, and at the expiration of such time he shall audit, adjust and make a statement of such accounts on the vouchers and proofs before him. He shall transmit a copy of every account as settled to such persons, and if any balance is stated therein to be due the state, and is not paid to the treasurer within ninety days after its transmission to such person, the comptroller shall deliver a certified copy of such account to the attorney-general for prosecution. Such certified copy shall be presumptive evidence of the indebtedness of such person to the state for the balance so certified, and if on the trial of any action brought thereon, the defendant gives any evidence other than such as was produced to the comptroller before the statements of such accounts, and by means thereof, the balance

so stated is reduced or no balance is found to be due, the defendant shall be liable for and pay the costs of such action.

[R. S., pt. I, ch. VIII, tit. 3, §§ 26-29; R. S., 8th ed., p. 515.  
without change in substance.]

§ 25. Statement of joint accounts.—The comptroller may, in his discretion, settle separately the accounts of one or more persons receiving moneys of the state for which they are accountable to the state. In such case no person shall plead as a defense to an action brought for a balance certified to be due from him, the non-joinder of any other person, or give in evidence upon the trial thereof the fact that any other person was concerned with him in the receipt or expenditure of such moneys.

[R. S., pt. I, ch. VIII, tit. 3, §§ 30, 31.  
without change in substance.]

§ 26. Other remedies preserved.—This article does not preclude the state from the enforcement of any other remedy, for the recovery of any debt due or to become due to the state.

[R. S., pt. I, ch. VIII, tit. 3, § 32; R. S., 8th ed., p. 515,  
without change in substance.]

§ 27. Foreclosure of mortgages by the state.—The comptroller shall cause all mortgages belonging to the state upon which default is made in the payment of principal or interest, to be foreclosed, whenever, in his judgment, it may be necessary for the protection of the interest of the state. All actions or proceedings for that purpose shall be prosecuted or conducted by the attorney-general, when requested by the comptroller.

[R. S., pt. I, ch. IX, tit. 6, §§ 1-3; R. S., 8th ed., p. 651.

The procedure is made to conform with that provided by law in ordinary cases of mortgage foreclosure. The comptroller's authority to direct foreclosure is new. Such power is now vested in the attorney-general.]

§ 28. When comptroller shall bid in premises.—If on a sale on any such foreclosure, there is not bid and paid or received the amount unpaid on the mortgage, for principal and interest and the costs and expenses of the foreclosure, the comptroller may cause the sale to be postponed and have the value of the

premises appraised by two competent and disinterested persons selected by him. If the premises are appraised at a sum equal to or exceeding the amount unpaid to the state, including the costs of the foreclosure and expenses of the appraisal, the comptroller on the sale thereof, shall bid for the state such amount, if necessary to prevent a sale of the premises at a less sum. If the premises are appraised at a sum less than such amount, the comptroller shall bid the amount of the appraisement and no more. If the premises are struck off for an amount less than such amount, no greater sum shall be credited to the mortgagor or any other person, on account of such sale than the amount bid for the premises sold, deducting therefrom all costs and expenses of the sale and appraisal. The appraisers shall receive a reasonable compensation for their services, to be allowed by the comptroller and paid out of the treasury.

[R. S., pt. I, ch. IX, tit. 6, §§ 4-8; R. S., 8th ed., pp. 651-2, without change in substance, except that the comptroller is given the duties relating to the bidding in of premises sold on foreclosure, now vested in the attorney-general.]

§ 29. Conditions of sale.—At a sale under any such foreclosure, the comptroller may require the purchaser to pay, at the time of the sale, the costs and expenses thereof, and at least one-fourth of the amount so unpaid; and for securing the remainder of the moneys due the state, on the execution of a deed or of the affidavits of sale to the purchaser, he may accept from the purchaser a bond and mortgage to the state on the premises sold, payable in six equal annual installments, with annual interest at six per cent. If the mortgaged premises sell for a greater sum than the amount so unpaid and the costs and expenses of the sale, the comptroller shall also require the purchaser at the time of sale to make payment of such surplus. The expenses, incurred by the attorney-general in any action or proceeding for the foreclosure of any such mortgage, shall be paid to him out of the treasury.

[R. S., pt. I, ch. IX, tit. 6, §§ 9-11, 17; R. S., 8th ed., p. 652, without change in substance, except that the duties of the attorney-general in relation to the sale under foreclosure are transferred by this section to the comptroller.]

§ 30. Sale in parcels.—On any such foreclosure, if any person having title to a part of the mortgaged premises, by conveyance from or through the mortgagor, delivers to the comptroller an affidavit stating that he has such title, and describing with certainty such part, the comptroller on the sale under such foreclosure shall cause to be first sold that part of the mortgaged premises not specified in the affidavit. If the part so sold does not produce enough to satisfy the amount so unpaid and costs and expenses he shall immediately cause such part or parts of the premises as have been conveyed by the mortgagor and described in any such affidavit, to be sold, and if more than one part of such premises have been so conveyed, and an affidavit made as herein required, the comptroller shall cause such parts to be sold in the inverse order of the dates of such conveyances, if it is necessary to sell them, commencing with the part last conveyed by the mortgagor, and such sale shall cease when the proceeds of the sale are sufficient to satisfy the amount so unpaid and such costs and expenses.

[L. 1839, ch. 381, § 1; R. S., 8th ed., p. 654,  
without change in substance, except that the comptroller is substituted for the attorney-general.]

§ 31. Separate accounts for lands purchased or mortgaged.—The comptroller, on application to him for that purpose, shall open an account in his office against any person, for a part or subdivision of a lot of land purchased from or mortgaged to the state, for the proportionate part of the moneys on any such part or subdivision, and thereafter give credit on the several parts or subdivisions, as the persons making payments may require. He may credit any prior payment to a part or subdivision if such payment appears by satisfactory proof to have been originally intended to be paid on such part or subdivision, or by or for the use of the person claiming the credit, whether so expressed in the receipts or not. No part of any such payments shall be applied to the reduction of the principal unpaid on any such part or subdivision, unless the payments exceed the interest, calculated on the principal due on such part or subdivision, to the day when

such part or subdivision is to be paid off, or a new account opened therefor. If separate receipts be given by the treasurer, for any payments which are claimed to be credited to the account of any such part or subdivision, the receipts shall be delivered to the comptroller and filed in his office. Separate accounts shall not be opened under this section unless a map and survey of the whole lot is filed with the comptroller, showing particularly the part or subdivision for which such account is to be opened, and satisfactory proof furnished the comptroller, that the residue of the lot is sufficient security for the sum remaining unpaid thereon.

[R. S., pt. I, ch. VIII, tit. 3; §§ 33, 34, 35, 40; R. S., 8th ed., without change in substance, p. 516.]

§ 32. Discharge of mortgages.—The treasurer's receipt, countersigned by the comptroller, setting forth that the whole sum, secured by any mortgage held by the state has been paid, shall be a sufficient discharge of the mortgage, and the officer in whose office such mortgage is recorded shall record such receipt as a satisfaction of the mortgage and satisfy the mortgage of record. When any part or subdivision of any lot mortgaged to or purchased from the state, for which a separate account has been opened, is paid, the comptroller shall execute a discharge of such part or subdivision from such mortgage.

If a map and survey of the whole lot is filed with the comptroller, showing particularly a part or subdivision for which no separate account has been opened, and the owner thereof pays into the treasury its full proportion of principal and interest unpaid, and satisfactory proof is furnished the comptroller that the residue of the lot is sufficient security for the sum remaining unpaid, he may execute a like discharge of such part or subdivision.

[R. S., pt. I, ch. VIII, tit. 3, §§ 36-39; R. S., 8th ed., pp. 516-7. without change in substance.]

§ 33. Payment of prior claims upon state lands.—If the comptroller ascertains that lands mortgaged to the state are subject to

prior incumbrances he may with the advice and consent of the attorney-general, take an assignment thereof to the state. If lands mortgaged to the state, or purchased for the state on the foreclosure of a mortgage, be sold on execution by virtue of a judgment recovered prior to such mortgage, the comptroller, with the advice and consent of the attorney-general, may redeem such lands in the same manner as judgment creditors may by law redeem. All moneys required for the purpose of this section shall be paid out of the treasury.

[R. S., pt. I, ch. VIII, tit. 8, §§ 7, 8; R. S., 8th ed., p. 530.

without change in substance, except that the duties of the attorney-general, respecting claims upon state lands are transferred to the comptroller, who is to act as the executive officer "with the advice and consent of the attorney-general."]

§ 34. Surplus moneys on sale of lands mortgaged to the state.— If real property mortgaged to the state, or purchased for the benefit of the state, or for which a certificate has been given to a former purchaser, is sold by the comptroller, state engineer or the commissioners of the land office for a greater sum than the amount due to the state, with the costs and expenses of the foreclosure or resale, the surplus moneys received into the treasury after a conveyance has been executed to the purchaser, shall be paid to the person legally entitled to such real property at the time of the foreclosure or of the forfeiture of the original contract. On a sale of such real property by the comptroller, the state engineer or the commissioners of the land office, the comptroller shall give credit to the mortgagor on his bond or to the original purchaser on his contract, for the amount at which such property has been sold, after deducting therefrom all the costs, charges and expenses of the sale. If interfering claims to such surplus moneys be made, they shall be referred by the comptroller to the attorney-general, whose decision as to the rights of the respective claimants shall be final and conclusive as to any claim against the state. The comptroller shall not draw his warrant for any moneys authorized by this section to be refunded, except on satisfactory proof,

by affidavit or otherwise, of the legal right of the person in whose favor such warrant is applied for.

[R. S., pt. I, ch. VIII, tit. 8, §§ 10, 11, 12; R. S., 8th ed., p. 531. without change in substance, except the transfer of certain powers from the attorney-general to the comptroller.]

§ 35. Assignments of mortgages; releases from judgments.—The comptroller, on the written request of the owner in actual possession of real property mortgaged to the state, may assign such mortgage, with the bond or other instrument accompanying the same, on payment into the treasury of the amount of principal and interest unpaid on such mortgage. The comptroller, with the consent of the attorney-general, if satisfied that the interests of the state will not be prejudiced thereby, may release any portion of any real property subject to a judgment in favor of the people of the state from the lien created by such judgment.

[R. S., pt. I ch. VIII, tit. 8, §§ 6, 9; R. S., 8th ed., p. 530. R. S., pt. I, ch. VIII, tit. 3, § 41; R. S., 8th ed., p. 517. consolidated without change in substance.]

§ 36. Compromise of old judgments and debts.—The attorney general and comptroller, or either of them, may acknowledge satisfaction of judgment in favor of the people of the state when the same is settled or discharged. The comptroller, with the approval of the attorney-general, may compromise, settle, release and discharge any judgment or contract debt not in judgment in favor of the state, after the lapse of ten years since the recovery of the judgment, or since the debt became due, on such terms as the comptroller and attorney-general deem for the best interest of the state.

[R. S., pt. I, ch. VIII, tit. 8, § 9; R. S., 8th ed., p. 530. L. 1878, ch. 291; R. S., 8th ed., p. 509, consolidated without change in substance.]

## ARTICLE II.

## The General Fund.

## Section 50 General fund.

## 51. Payments out of the general fund.

§ 50. General fund.—The stocks, debts and other property known as the general fund of this state, the income and revenues thereof, and the additions which may be made thereto, shall continue to be known as the general fund. All money paid into the treasury of the state, not belonging to any specific fund established by law, belongs to and is a part of the general fund.

[R. S., pt. I, ch. IX, tit. 1, §§ 1, 2, 3; R. S., 8th ed., p. 555, without change in substance.]

§ 51. Payments out of the general fund.—All moneys authorized by law to be paid out of the treasury of the state and not payable from any specific fund established by law shall be paid out of the general fund.

[R. S., pt. I, ch. IX, tit. 1, § 16; R. S., 8th ed., p. 561.

This section makes a general provision for payments from the general fund without specifying the different charges upon such fund.]

[Note.—A large number of superfluous and obsolete enactments relating to the transfer of stock from one fund to another, the assignments of bonds, etc., which are not now enforceable have been repealed and not re-enacted.]

## ARTICLE III.

## Canal Fund and Canal Debt Sinking Fund.

## Section 60. Canal fund.

## 61. Commissioners of the canal fund.

## 62. Deposit of funds.

## 63. Charges on the canal fund.

## 64. Rules and regulations.

## 65. When money may be borrowed for the canal fund.

## 66. Annual report of commissioners of canal fund.

§ 60. Canal fund.—The canal fund shall continue to consist of the following property:

1. Real property granted for the construction of the canals, by the state, by companies, or by individuals, and remaining unsold.

2. Debts due for portions of such real property heretofore sold.

3. All moneys received from the sale or use of the surplus waters of any canal.

4. All moneys recovered in suits for penalties or damages instituted under the canal law.

5. All moneys required by law to be paid into the canal fund.

[R. S., pt. I, ch. IX, tit. 2, § 1, subs. 1, 2, 6 and 7; R. S., 8th ed., p. 563, without change in substance.]

§ 61. Commissioners of the canal fund.—The canal fund and the canal debt sinking fund shall continue to be superintended and managed by the commissioners of the canal fund, a majority of whom, including the comptroller, shall be a quorum for the transaction of business. The care and disposition of all lands belonging to the canal fund shall be vested in the commissioners of the land office. Investments for the canal fund and the canal debt sinking fund shall be made by the comptroller subject to the approval of the commissioners of the canal fund in such securities as he is authorized by law to invest the other funds of the state.

[R. S., pt. I, ch. IX, tit. 2, § 4; R. S., 8th ed., p. 564, L. 1887, ch. 245; R. S., 8th ed., p. 616, consolidated without change in substance.]

§ 62. Deposit of funds.—The commissioners of the canal fund may deposit the moneys belonging to such fund, or the canal debt sinking fund, with any safe incorporated monied institution or banking association in this state, and may make such contracts therewith for the interest on and the duration of such deposits as will best promote the interest of the funds.

[R. S., pt. I, ch. IX, tit. 2, § 13; R. S., 8th ed., p. 566, without change in substance.]

§ 63. Charges on the canal fund.—All moneys expended in the construction, repair or improvement of the canals now author-

ized by law, or allowed or expended by the commissioners of the canal fund, or the superintendent of public works or other officer or assistant employed on such canals pursuant to law, with the compensation of such officers respectively, including the salary of the superintendent of public works, shall be charged to the canal fund unless otherwise expressly provided by law, and the comptroller shall also charge from time to time so much for the services of the clerks in his office, devoted to the accounts and revenues of the canals, as in his opinion is just.

[R. S., pt. I. ch. IX, tit. 2, § 13; R. S., 8th ed., p. 566,  
without change in substance.]

§ 64. Rules and regulations.—The commissioners of the canal fund, from time to time, shall prescribe such rules and regulations relative to the transfer of all or any of the public stocks of this state, constituting the debt known as the canal debt, and the division and consolidation of the certificates thereof, as they think advisable and proper. They may require such returns to be made to the comptroller by the officer or person authorized by law to transfer such stocks, and pay the interest on any loan, as they deem reasonable and expedient.

[L. 1830, ch. 242; R. S., 8th ed., p. 607,  
without change in substance.]

§ 65. When money may be borrowed for the canal fund.—If the legislature, the canal board, the commissioners of the canal fund or the superintendent of public works, lawfully authorize or require the payment of any sum of money out of the canal fund, for any purpose connected with canal expenditures, and there is not money in such fund applicable to such purpose, the commissioners of the canal fund may borrow such sum of money, payable in such time not exceeding eighteen years, and bearing such rate of interest not exceeding five per cent, as they deem most beneficial to the interests of the state, and the comptroller may issue stock therefor in the manner provided by law.

[L. 1849, ch. 228; R. S., 8th ed., p. 616,  
without change in substance.]

§ 66. Annual report of commissioners of canal fund.—The commissioners of the canal fund shall annually make a report to the legislature at the opening of its session which shall exhibit a statement of the funds intrusted to or under their care and management during the next preceding fiscal year, and recommend from time to time to the legislature, the adoption of such measures as may be thought proper by them for the improvement of the fund.

[R. S., pt. I, ch. IX, tit. 2, § 5; R. S., 8th ed., p. 564, L. 1831, ch. 320, § 27; R. S. 8th ed., p. 610, without change in substance.]

[Note.—A number of obsolete enactments relating to canal stock, annual loans to general fund, etc., have been omitted.]

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#### ARTICLE IV.

##### The Education Funds.

Section 80. The education funds.

81. Investments.

82. The United States deposit fund.

83. Appointment and qualification of loan commissioners.

84. Powers of single commissioner; books and records.

85. Supervision of existing loan office mortgages.

86. New accounts for parts of premises.

87. Power of commissioners to maintain actions.

88. Foreclosure and redemption of loan office mortgages.

89. Purchases for the state.

90. Report to comptroller.

91. Certified copy of original mortgage.

92. Fees of loan commissioners.

93. The college land scrip fund.

§ 80. The education funds.—The education funds of the state consist of all moneys, securities or other property in the treasury of the state or under the control of any state officer, and of all debts due the state, or real property owned by it belonging

to the literature fund, the common school fund, the United States deposit fund, and the college land scrip fund. The proceeds of all lands which belonged to the state on January 1, 1823, except the parts thereof reserved or appropriated to public use or ceded to the United States, shall belong to the common school fund.

[R. S., pt. I, ch. IX, tit. 3, § 1; R. S., 8th ed., p. 567,  
R. S., pt. I, ch. IX, tit. 4, § 1; R. S., 8th ed., p. 568,  
without change in substance, except that the provisions  
in such sections relating to the perpetuity of the funds,  
except the college land scrip fund, are provided for by  
const. art. 9, § 1.]

§ 81. Investments.—The comptroller shall invest and keep invested all moneys belonging to the education funds in the stocks and bonds of the United States and of this state, or for the payment of which, the faith and credit of the United States or of this state are pledged, or in the stocks or bonds of any county, town, city, village or school district of the state authorized to be issued by law. The moneys belonging to the United States deposit funds now invested on mortgages in the several counties of the state, may continue to be so invested until such mortgages are paid or foreclosed. Whenever any such mortgage is paid or foreclosed, the amount received on such foreclosure or payment shall be paid into the state treasury to the credit of the United States deposit fund. The comptroller, whenever he deems it for the best interests of such funds or either of them, may dispose of any of the securities therein or investments thereof, in making other investments authorized by law, and he may exchange any such securities for those held in any other of such funds. The care and disposition of all lands belonging to the literature fund and the common school fund shall be vested in the commissioners of the land office.

[R. S., pt. I, ch. IX, tit. 4, §§ 4, 6; R. S., 8th ed., p. 568,  
L. 1840, ch. 294; R. S., 8th ed., p. 569,  
L. 1848, ch. 366; R. S., 8th ed., p. 616,  
L. 1887, ch. 245, as am. by L. 1888, ch. 464 and L. 1889, ch. 50;  
R. S., 8th ed., p. 616,  
consolidated without change of substance.]

§ 82. The United States deposit fund.—The part of the United States deposit fund received out of the surplus money of the treasury of the United States, under the seventeenth section of the act of congress, entitled “An act to regulate the deposits of the public money,” passed January 23, 1836, is held by the state on the terms, conditions and provisions specified in such act of congress, and the faith of the state is inviolably pledged for the safe-keeping and repayment of all moneys thus received from time to time, whenever the same shall be required by the secretary of the treasury of the United States, under the provisions of such act. The comptroller and treasurer of the state shall keep the accounts of the moneys belonging to the United States deposit fund in the books of their respective offices, separate and distinct from the state funds, and in such manner as to show the amount of principal of the fund, the amount received from the interest, the amount paid from the annual revenue and the objects to which the same has been applied. If there shall be any loss in the loans of the moneys belonging to the United States deposit fund, it shall be a charge on the interest derived from the loan of such moneys, and none of the interest moneys shall be paid out for any purpose until such loss has been made good therefrom.

[L. 1837, ch. 2; R. S., 8th ed., p. 572,

L. 1837, ch. 150, §§ 60, 63; R. S., 8th ed., p. 586,  
consolidated without change in substance.

The following sections relating to the care and disposition of the United States deposit fund are practically new; while the present loan commissioners are continued in office with many similar powers and duties, the power to loan money on mortgage is taken away. The money collected by them as payment of principal and interest and upon foreclosure is to be paid into the state treasury and treated the same as other state funds. These changes render useless a large portion of ch. 150 of the Laws of 1837, and its supplemental acts, and have made it possible to eliminate many of the cumbersome provisions of those acts.]

§ 83. Appointment and qualification of loan commissioners.—There shall continue to be two commissioners for loaning the moneys belonging to the United States deposit fund, in each county, where such moneys are now invested, who shall be known

as loan commissioners. The term of office of each commissioner shall be two years. Such commissioners shall be appointed by the governor, with the advice and consent of the senate. Each commissioner shall reside in the county, for which he is appointed and shall not be a supervisor. The office of such commissioners for each county shall be kept at the court-house of the county or at some convenient place near the same.

The comptroller may direct the commissioners to cancel and discharge any mortgage, on satisfactory proof that the moneys loaned and secured by such mortgage have been fully paid to either of the commissioners authorized to receive the same, if the mortgage remains uncanceled and undischarged of record. The commissioners in pursuance of the order and direction of the comptroller, shall cancel and discharge such mortgage.

[L. 1837, ch. 150, §§ 2, 5; R. S., 8th ed., p. 572,  
L. 1838, ch. 38; R. S., 8th ed., p. 587,  
L. 1868, ch. 698; R. S., 8th ed., p. 594,  
without change in substance.]

§ 84. Powers of single commissioner; books and records.— If there is but one commissioner in a county, or but one able or qualified to act, he shall have all the powers of two commissioners of the county until his associate has been appointed and qualified or has become able to act. If the two commissioners of the county disagree with reference to any matter requiring their action, either may apply to the supreme court for direction in the premises, on notice of eight days to his associate, and any order which the court may make on such application shall be observed and complied with by such commissioners. The book or books of mortgages executed to the commissioners shall remain in the clerk's office of the county, when not in use by them. The commissioners shall keep a record of their proceedings in a book to be kept for that purpose, which, when not in use by them, shall be deposited in the clerk's office of the county. During office hours any person may search and examine any book required to be kept by this article.

[L. 1837, ch. 150, § 23, as am. by L. 1863, ch. 73, §§ 45, 55;  
R. S., 8th ed., pp. 577, 583, 585.

That part of this section, relating to the settlement of differences arising between two commissioners, is new.]

§ 85. Supervision of existing loan office mortgages.—Such commissioners in each county shall have charge of the mortgages heretofore executed to them or their predecessors in office, on lands in such county, which mortgages shall continue with the same force and effect as if this chapter were not enacted. The rate of interest in such mortgages shall be five per cent per annum.

Such commissioners shall collect and receive the interest arising on any such mortgage, and in case of failure to pay such interest when due, may foreclose such mortgage in the name of the people of the state of New York, by such actions or proceedings as other mortgages may be foreclosed. Such commissioners shall receive payment of the principal or any part thereof of any such mortgage on lands within their respective counties when tendered, and shall satisfy and discharge the same by the execution and acknowledgment of a satisfaction piece in the usual form, which shall be recorded by the county clerk, who shall thereupon write upon the margin of such mortgage, in the book containing the same in his office, a statement to the effect that the same has been discharged and satisfied by such commissioners, giving the date thereof.

Such commissioners may allow any such mortgage to remain as a continuing security if all interest due thereon has been paid, and they are satisfied, on due inquiry, that the same is a first lien on the premises described therein, and that such premises are worth double the amount unpaid on the mortgage. If not so satisfied, they shall report the facts to the comptroller, and if directed so to do by him, they shall proceed to foreclose such mortgage and collect the principal and interest due thereon. Every such commissioner hereafter appointed, before entering on his official duties, shall execute to the people of the state of New York, an undertaking with two or more sufficient sureties, to be approved by the comptroller, in such sum as the comptroller directs, for the true and faithful performance of his duties as such commissioner. No commissioner shall receive any moneys under the provisions of this article until such undertaking has been executed, approved and filed in the office of the comptroller. The comptroller may require additional security at any

time, and, if the same is not given when required shall report the fact with his reason for requiring additional security to the governor.

[L. 1837, ch. 150, §§ 4, 5, 22, 47, 50; R. S., 8th ed., p. 572.]

The loan commissioners still retain the power to collect and receive the principal and interest of mortgages when due, and to foreclose when necessary. The provisions of the statute, L. 1837, ch. 150, and supplemental acts relating to the loaning of money, issuing of mortgages, their form and all other matters relating thereto are repealed and not re-enacted.

The procedure for the foreclosure of loan office mortgages has been made to conform with that which prevails upon the foreclosure of ordinary mortgages. The form of bond prescribed in L. 1837, ch. 150, § 20 is omitted.]

§ 86. New accounts for parts of premises.—If the owner of mortgaged premises sell a part thereof, the commissioners on application and with the consent of the mortgagor and such owner shall open an account against the purchaser for his proportionate share of the moneys unpaid on the mortgage, but not for a less sum than one hundred dollars nor unless the part of the mortgaged premises remaining unsold, exclusive of buildings and prior liens, is worth double the residue of the mortgage debt not included in the new account. On full payment of the amount for which a separate account is opened, the commissioners shall discharge the part for which such account was opened by the execution of a release in the usual form, which, when acknowledged, shall be recorded by the county clerk and a minute thereof made upon the margin of the mortgage. Such discharge shall not affect or impair the obligation or liability of the mortgagor.

[L. 1847, ch. 476, §§ 1, 2, 3; R. S., 8th ed., p. 591, without change in substance.]

§ 87. Power of commissioners to maintain actions.—The commissioners may at any time, before the sale of the the mortgaged premises, bring an action in the name of the people to restrain the commission of waste by any person upon the mortgaged premises, or to correct any mistake or omission in the description thereof, or to recover the amount due on a mortgage. At any time after

default and before sale, if any person cuts or removes or injures the timber, fences, buildings or other fixtures, belonging to such mortgaged premises, or threatens so to do, they may maintain a like action for damages or an injunction.

[L. 1837, ch. 150, §§ 33, 40; R. S., 8th ed., p. 582, without change of substance.]

§ 88. Foreclosure and redemption of loan office mortgages.-- If the interest, due on any such mortgage, shall not be paid on the first Tuesday of October of any year, or within twenty-three days thereafter, or the principal or any part thereof shall not be paid when due, the state shall be seized of an absolute estate in fee, in such lands, and the mortgagor, his heirs and assigns, shall be foreclosed and barred of all equity of redemption of the mortgaged premises; but shall be entitled to retain possession thereof, until sale under foreclosure, as herein provided; and shall, at any time before the purchaser at such sale receives his evidences of title on the foreclosure, be entitled to redeem the same by paying to the commissioners the principal unpaid on the mortgage and the interest to the time of redemption, and all the costs and expenses of the foreclosure and sale. On such redemption, the title to the mortgaged premises shall revert to and be vested in the mortgagor, his heirs or assigns. If, before redemption, the purchaser pays to the commissioners, the purchase-money or part thereof, the amount so paid shall be repaid to him.

[L. 1837, ch. 150, §§ 27, 30; R. S., 8th ed., p. 578.

L. 1880, ch. 517, as am. by

L. 1891, ch. 181; R. S., 8th ed., p. 595.

This section is a re-enactment of that part of the law relating to foreclosure and the equity of redemption.]

§ 89. Purchases for the state.— If, on any such foreclosure, the property does not bring a sum sufficient to pay in full the amount of principal and interest unpaid on such mortgage, and the costs and expenses of the sale, the commissioners shall bid in the mortgaged property for the people of the state, and take title thereto in the name of the state, and transmit the evidence of title to the comptroller, and thereafter such property shall belong to the state and form a part of the United States deposit fund. The

commissioners, under the direction of the commissioners of the land office, shall continue to exercise supervision and care over such property until it is disposed of according to law and may include the original amount loaned on the mortgage in the sum on which their commissions are estimated. In all such cases the commissioners, under the direction of the comptroller, shall sue for and collect any deficiency from any person liable to pay the same, and such sale and the purchase of the lands by the people shall not be a defense to the action or any part thereof. The commissioners shall be allowed by the comptroller the taxable costs and disbursements incurred in any action or proceeding for the foreclosure of any such mortgage, when the real property is bid in or conveyed to the state under this section, and any reasonable expenses incurred by them in such action to be fixed and approved by the comptroller; and any recovery which may be had against them in any action or proceeding where the comptroller is satisfied that such recovery was not had in consequence of any default or misconduct on their part, with their costs and expenses in such action or proceeding; and the amount of such costs, disbursements and expenses, when so fixed and approved, may be retained out of any moneys in the hands of the commissioners received by them under this article, or may be paid by the comptroller out of the revenues of the United States deposit fund. No commissioners shall be directly or indirectly interested in the purchase of any mortgaged premises; if so interested such sale shall be void.

[L. 1837, ch. 150, §§ 15, 33; as amended by L. 1878, ch. 233; R. S., 8th ed., p. 576.

L. 1844, ch. 236, § 4; R. S., 8th ed., p. 590.

L. 1863, ch. 73, § 3; R. S., 8th ed., p. 593.

The sections relating to the appraisement of mortgaged premises and the bidding in by the state at the appraised value have been omitted. The mortgagor is not, in this section, credited upon his mortgage debt with the appraised value, as formerly, but the commissioners may sue for and collect the mortgage debt as if there had been no purchase by the state. The amount of the fees were hitherto regulated by statute; this section prescribes that the disbursements, costs and expenses shall be fixed and approved by the comptroller.]

§ 90. Report to comptroller.—Such commissioners, annually, in the month of January, shall make a report to the comptroller, showing all their transactions under this article to the close of business on the thirty-first day of December preceding, and for the calendar year then ending. Such report shall contain:

1. A statement of the mortgages outstanding in the county, with the names of the mortgagors, the dates of the mortgages, the amounts paid thereon, both principal and interest, the amount of property on which each is a lien and the estimated cash market value of such property.

2. The amount of interest received during such year, from whom received and on what mortgages, the names of the mortgagors and the number of each mortgage.

3. The amount of principal received during such year, from whom received, and on what mortgage, giving the name of the mortgagor and the number of each mortgage.

4. The amount retained for compensation.

5. A statement of all moneys retained for the costs, disbursements and expenses of foreclosures.

6. All other matters deemed material for the information of the comptroller, or required by him.

The comptroller may prescribe the form of such report, and may require a special report to be made at any time in regard to any matter under this article. At the time of making the annual report and during the month of January in each year such commissioners shall pay into the state treasury the amount of moneys in their hands as shown by such report, and all moneys received and collected by them under this article, less the amount which they are entitled to retain for their compensation, costs, disbursements and expenses. At any time within one year from the rendition of such report, the comptroller, if dissatisfied with the same, may audit and adjust the account of any such commissioner for the moneys received, paid out or retained by him under this article, and fix and determine the amount due the state on account thereof, and make a certificate to that effect, which shall be presumptive evidence of the amount due the state

in any action or proceeding against such commissioner or the sureties on his undertaking.

[L. 1837, ch. 150, § 16; R. S. 8th ed., p. 576.

This section is mostly new. The law now provides for an annual report to the comptroller, but does not specifically state its contents.]

§ 91. Certified copy of original mortgage.—On the application of any person interested, the comptroller shall furnish a certified copy of any original mortgage which has been delivered to him pursuant to law, and the same may be recorded in the office of the clerk of the county where the mortgaged premises are situated.

[L. 1844, ch. 326, § 2 in part; R. S. 8th ed., p. 590,  
without change of substance.]

§ 92. Fees of loan commissioners.—The loan commissioners in each county may retain annually, as full compensation for their services under this article, three-fourths of one per cent on twenty-five thousand dollars or a less sum, committed to their charge during the preceding year, and one-half of one per cent on all sums over twenty-five thousand dollars, unless the whole amount exceeds fifty thousand dollars, in which case they may retain but one-half of one per cent on the whole sum; and in the city and county of New York, where they may retain but one-fourth of one per cent on the amount in excess of fifty thousand dollars, which compensation shall be retained out of the interest moneys collected and received.

[L. 1837, ch. 150, § 18; as am. by L. 1841, ch. 181; R. S. 8th ed., p. 576,  
without change in substance.]

§ 93. The college land scrip fund.—The principal of the college land scrip fund, shall consist of the entire proceeds of the sales of the land scrip, issued for the lands granted to this state by the act of the Congress of the United States, approved July 2, 1862, entitled "An act donating public lands to the several states

and territories which may provide colleges for the benefit of agriculture and the mechanic arts."

The acceptance by this state, of the provisions of such act of Congress, is continued in force.

Such principal sum shall not be reduced by any expenses incurred in any incidental matters connected with, or arising out of the care, maintenance, management or sale of such lands, or in the management or disbursement of the moneys received therefrom; but shall consist of the entire proceeds of such sales, and shall constitute a perpetual trust fund which shall remain forever undiminished, and if any portion of such principal, shall, by any action or contingency, be diminished or lost, it shall be replaced by the state.

The comptroller shall continue to invest, and keep invested, the principal amount of such funds, paid into the treasury, as often as there may be a sufficient accumulation for that purpose, in stocks of the United States, of this state, or in other safe stocks, yielding not less than five per cent per annum on the par value thereof. The moneys in the treasury, constituting such principal, shall be paid out by the treasurer, from time to time, on the warrant of the comptroller, when required by him for the purpose of such investment.

[L. 1863, ch. 20; R. S., 8th ed., 596,

L. 1863, ch. 460; R. S., 8th ed., 596, as am. by

L. 1864, ch. 229,

consolidated without change of substance, except as follows:

(1) The provisions of §§ 1-3 as to receipt and sale of land-scrip, having been fully executed, are omitted as temporary and obsolete.

(2) The provision, as to restoration by the state of any portion of the principal which may be lost, is not expressly contained in the existing law of the state, but is expressly contained in the congressional land grant act, the provisions of which have been accepted by the state. The insertion of this provision for the first time, expressly in the law of this state, works no change in the substance of existing law, and places all the terms of the contract between this state and the United States in the state law.

(3) The last clause of § 4 of ch. 460, L. 1863, preserving the permission given by the act of Congress, to expend ten per cent of principal for purchase of site and farm for the college land

grant college is omitted. The possibility of an emergency, justifying such diminution of the fund, has gone by, and the absolute requirement that the principal of the fund be preserved intact is now the settled policy both of the state and of the land grant university.

(4) Sections 5-7 of ch. 460, L. 1863, as to 'separate accounts of the fund, and annual report thereof by comptroller, are omitted because provided for in § 4 of this chapter.】

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## ARTICLE V.

### Miscellaneous Funds.

Section 100. The prison fund.

101. The military record fund.

102. The women's monument fund.

103. The mariners' fund.

104. Laws repealed.

105. When to take effect.

§ 100. The prison fund.—The prison fund shall consist of all moneys raised by taxation for prison purposes, or heretofore appropriated and unexpended therefor, and all moneys arising from the sale of the products or property of the prisons which may be paid into the state treasury. All such moneys, whenever received into the treasury, shall be placed to the credit of such fund. All appropriations, except for repairs other than the ordinary repairs thereof, made for any of the prisons of the state, for the maintenance thereof, for the purchase of materials therefor, and for manufacturing therein, shall be paid by the treasurer from such fund, upon the warrant of the comptroller.

【L. 1887, ch. 637; R. S., 8th ed., p. 616,  
without change of substance.】

§ 102. The military record fund.—All moneys contributed and paid over to the treasurer of the state by towns, cities and individuals for the erection of a hall of military record belong to the military record fund. Such fund shall be invested in the same manner as other state funds and a separate account thereof shall

be kept by the state treasurer. The interest arising from the investment of such fund shall be used in the maintenance of such quarters in the state capitol as shall be set apart for the safe-keeping of military records, books and property, and for the display of colors, standards, battle flags and relics, which is known as the hall of military record.

[L. 1865, ch. 744; R. S., 8th ed., p. 871,  
L. 1866, ch. 610; R. S., 8th ed., p. 873,  
L. 1878, ch. 369; R. S., 8th ed., p. 874,

All these laws have been repealed and partly re-enacted in the Military Code, § 42. It seems proper, however, to designate the military record fund among the state funds in the State Finance Law.]

§ 103. The women's monument fund.—All contributions paid into the state treasury for the erection on the capitol grounds of a monument commemorative of the women who rendered acts of sympathy, kindness and charity to the soldiers in the late war, shall constitute the women's monument fund. The state treasurer is authorized to receive contributions for the erection of such monument at any time during the ten years following the passage of the act entitled "An act to authorize the veteran soldiers and sailors of the late war, residing in the state of New York, to erect a monument on the capitol grounds at Albany, in honor of the women of said state, for their humane and patriotic acts during the war," passed April 24, 1886. If, at the expiration of such ten years, there shall not have been paid into the treasury the sum of fifteen thousand dollars, the amount collected and then remaining in the treasury, belonging to such fund, shall be paid by the state treasurer to the trustees of the Soldiers' Home at Bath, to be used by them to the best advantage of such home.

[L. 1886, ch. 196, §§ 2, 4,  
without change in substance.]

§ 103. The mariner's fund.—The loan of ten thousand dollars made by the comptroller to the trustees of the American Seamen's Friend Society in the city of New York, pursuant to chapter 173 of the laws of 1840, and continued by chapter 37 of the laws of

1845, shall constitute the Mariners' fund. Such loan shall be secured by mortgage satisfactory to the comptroller and may be retained by such trustees, without payment of interest, as long as they shall faithfully use and apply the same to promote the benevolent objects of the Sailors' Home, erected for the boarding and accommodation of seamen in such city.

The trustees of such institution may mortgage the Sailors' Home for a term not less than seven years to secure the debts due from, or money loaned to, them for the lawful purpose of such institution, to an amount not exceeding fifteen thousand dollars. Such mortgage shall be a lien on such home prior to the lien held by the state to secure the loan mentioned in this section, provided all other liens and incumbrances on such home be discharged and canceled of record.

No sale of such Sailors' Home upon the foreclosure of any mortgage prior to the lien of the state shall be had without, at least, six weeks previous notice of such sale served personally upon the comptroller.

[L. 1845, ch. 37; R. S., 8th ed., p. 605,  
without change in substance.]

§ 104. Laws repealed.—Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is repealed.

§ 105. When to take effect.—This chapter shall take effect on October first, eighteen hundred and ninety-four.

#### SCHEDULE OF LAWS REPEALED.

Revised Statutes....	Part I, ch. VIII, title 3, articles 1, 2, 3 .....	All.
Revised Statutes....	Part I, ch. VIII, title 4.....	All.
Revised Statutes....	Part I, ch. IX, title 6.....	All.
Revised Statutes....	Part I, ch. IX, title 2.....	All except §§ 10, 11, 12.

Laws of	Chapter	Sections.
1830.....	184.....	All.
1830.....	242.....	All.
1831.....	286.....	All.
1831.....	320.....	All.
1832.....	296.....	All.
1833.....	56.....	All.
1834.....	284.....	All.
1835.....	260.....	All.
1836.....	356.....	All.
1837.....	2.....	All.
1837.....	150.....	All except § 43.
1837.....	360.....	All.
1838.....	58.....	All.
1838.....	193.....	All.
1839.....	381.....	All.
1840.....	294.....	All.
1841.....	264.....	All.
1842.....	310.....	All.
1843.....	44.....	All.
1843.....	179.....	All.
1844.....	326.....	All.
1845.....	37.....	All.
1845.....	267.....	All.
1847.....	476.....	All.
1848.....	162.....	All.
1848.....	215.....	All.
1848.....	366.....	All.
1849.....	228.....	All.
1849.....	230.....	All.
1851.....	286.....	All.
1852.....	370.....	All.
1853.....	36.....	All.
1855.....	535.....	3.
1857.....	721.....	All.
1857.....	783.....	All.
1861.....	177.....	All.
1863.....	20.....	All.

Laws of	Chapter	Sections.
1863.....	731.....	All except § 9.
1863.....	460.....	All.
1864.....	229.....	All.
1864.....	553.....	All.
1868.....	698.....	All.
1872.....	115.....	All.
1877.....	245.....	All.
1878.....	233.....	All.
1878.....	291.....	All.
1880.....	100.....	All.
1880.....	517.....	All.
1886.....	196.....	2, 4.
1887.....	245.....	All.
1887.....	637.....	All.
1888.....	326.....	All.
1888.....	464.....	All.
1889.....	50.....	All.
1891.....	144.....	Last paragraph.
1891.....	181.....	All.

# COMMISSIONERS' MEMORANDUM

## EXPLANATORY OF THE

# STATE FINANCE LAW.

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The accompanying chapter of the revision, to be known as the State Finance Law, includes the existing statutes on the subject of the finances of the State, mainly found at pages 554 to 617 of the eighth edition of the Revised Statutes, and the laws prescribing the powers and duties of the Comptroller and Treasurer with respect to the care, management and disposition of its funds. (Id., pp. 505-522). The substance of various statutes relating to the miscellaneous State funds has also been included.

The substantial features of the present financial system of the state are preserved. Some of the cumbersome provisions of chapter 150 of the act of 1837 and its supplements, relating to the care of the United States Deposit Fund, have been eliminated.

The office of commissioners for loaning its moneys has been retained; but the procedure for the foreclosure of mortgages belonging to that fund has been simplified and made to conform to that which prevails on the foreclosure of ordinary mortgages. The practice adopted by the Comptroller some years since of calling the principal of these mortgages into the treasury, when paid, has been recognized and adopted.

A large number of superfluous and obsolete statutes have been included in the repealing schedule.

General provisions have been inserted with respect to the payment of appropriations, drawing of warrants, statements and verification of accounts and the vouchers to be furnished, which heretofore have been repeated either at the beginning or the end of

every annual appropriation and supply bill, which repetition will be unnecessary hereafter if the revision is adopted.

The commissioners believe the following to be the only changes of substance in existing law:

(1.) A slight redistribution of duties concerning certain property of the state has been attempted as between the offices of Comptroller and Attorney-General, in accordance with the general theory, as to those officers, prevailing since the adoption of the Revised Statutes and the constitution of 1846. (Sections 26, 27, 28, 29, 32, 33.)

(2.) The loan commissioners in the several counties are required to pay into the treasury the principal of mortgages received by them. This, although not provided by law, is in accordance with the present practice as established by the Comptroller under his general power to make regulations for the management of the fund. (Section 81.)

(3.) In case of a disagreement between commissioners a speedy review of their differences by the supreme court has been provided. (Section 84.)

(4.) Foreclosure of mortgages belonging to the United States Deposit Fund, has been conformed to the practice in the case of other foreclosures and the present cumbersome and unsatisfactory special proceeding for such foreclosure has been abolished. (Section 85.)

This change has caused several relatively unimportant changes in the procedure which will be found in section 89.

(5.) The contents of the commissioners' annual report to the Comptroller have been prescribed, as well as the time within which he must audit the same. The provision requiring them to report also to the supervisors has been omitted. (Section 90.)

The appendix, following this chapter of the proposed revision, contains all the statutes proposed to be repealed. Cross references and notes explaining the principal changes in language, and all changes in substance, are appended to the several sections of the proposed revision and of the existing statutes set out in the appendix.

## APPENDIX TO THE STATE FINANCE LAW

CONTAINING THE

# LAWS PROPOSED TO BE REPEALED THEREBY.

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(R. S., pt. I, ch. VIII, tit. 3; R. S., 8th ed., p. 505.)

Section 1. It shall be the duty of the comptroller,

1. To superintend the fiscal concerns of the state, and to manage the same in the manner required by law.

2. To exhibit to the legislature, at its annual meeting, a complete statement of the funds of the state, of its revenues, and of the public expenditures during the preceding year, with a detailed estimate of the expenditures, to be defrayed from the treasury for the ensuing year, specifying therein each object of expenditure, and distinguishing between such, as are provided for by permanent or temporary appropriations, and such as require to be provided for by law, and shewing the means from which such expenditures are to be defrayed.

3. To suggest plans for the improvement and management of the public revenues.

4. To keep and state all accounts between this state and the United States, and all other accounts in which the state is interested.

5. To examine and settle the accounts of all persons indebted to the state, and to certify the amount, or balance, to the treasurer.

6. To direct and superintend the collection of all monies due to the state.

7. To examine and liquidate the claims of all persons against the state, in cases where provision for the payment thereof shall have been made by law; and where no such provision, or an insufficient provision, shall have been made, to examine the claim and report the facts, with his opinion thereon, to the legislature.

8. To require all persons who shall have received any monies belonging to the state, and shall not have accounted therefor, to settle their accounts.

(R. S., pt. I, ch. VIII, tit. 3; R. S., 8th ed., 505.)

9. To draw warrants on the treasurer for the payment of all monies directed by law to be paid out of the treasury; but no warrant shall be drawn unless authorized by law, and every warrant shall refer to the law under which it is drawn.

**[Re-enacted in § 4 of the revision without change in substance, except subdivision 8, which is re-enacted in § 23 of the revision.]**

§ 2. The comptroller shall, from time to time, require all persons receiving monies, or securities, or having the disposition or management of any property of the state, of which an account is kept in his office, to render statements thereof to him; and all such persons shall render such statements, at such time, and in such form as he shall require.

§ 3. The comptroller may require any person presenting to him an account for settlement, to be sworn before him, touching the said account; and when so sworn, to answer orally, as to any facts relating to the justness of the said account.

**[Sections 2, 3 are re-enacted in § 23 of the revision, without change in substance.]**

§ 4. He shall countersign and enter all checks drawn by the treasurer, and all receipts for money paid to the treasurer; and no such receipts shall be evidence of payment unless so countersigned.

§ 5. He shall draw, in favor of the treasurer, on the presidents and directors of all banks, and other corporations, and joint stock companies, in which the state may own stock, for the dividends on such stock, as the same may become due.

§ 6. He shall procure, from the books of the banks in which the treasurer shall make his deposits, monthly statements of the monies which shall be received and paid out of the same, on account of the treasurer.

§ 7. He shall keep an account between the state and the treasurer, and therein charge the treasurer with the balance in the treasury when he came into office, and with all moneys received by him, and credit him with all warrants drawn on and paid by him.

§ 8. On the first Tuesday of every month, or oftener, if he deems it necessary, he shall carefully examine the accounts of the debts and credits in the bank books kept by the treasurer, and if he discovers any irregularity or deficiency therein, he shall, unless the same be rectified or explained to his satisfaction, forthwith report the same, in writing to the governor.

**[Sections 4-8 are re-enacted in § 5 of the revision, without change in substance.]**

(R. S., pt. I, ch. VIII, tit. 3; R. S., 8th ed., 506.)

§ 9. He shall, from time to time, examine the bonds, mortgages, and other securities on which money may be due, to the people of this state, and shall make enquiries relative to the sufficiency of the security for the payment of such monies; and in addition to the payment of interest, he shall require the payment of such part of the principal as he may deem necessary for the security and interest of the state.

**[Re-enacted in § 7 of the revision, without change in substance.]**

§ 11. It shall be lawful for the comptroller, in the name and in behalf of the people of this state, from time to time, as the legal demands on the treasury may render it necessary, to make such temporary loans, at a rate of interest not exceeding six per cent per annum, from corporations or individuals within this state, as may be necessary to discharge such demands; and he shall draw his warrant for the monies so borrowed, in favor of the treasurer, and charge him with the amount thereof.

**[Laws 1835, ch. 52 qualifies this section by allowing the comptroller to issue certificates for the amount borrowed. This law was repealed by the executive law, but not re-enacted therein. It is re-enacted in § 16 of the revision.]**

§ 12. Such temporary loans shall be paid, as soon as there shall be sufficient money for that purpose in the treasury; and the comptroller shall report to the legislature, his proceedings in relation to every such loan made by him.

**[Sections 11, 12, are re-enacted in § 15 of the revision, without change in substance.]**

§ 13. The comptroller shall have power to vote, either in person, or by proxy, in behalf of the state, at all elections of directors of banks, or other corporations, or joint stock companies, at which this state is entitled to vote.

**[Re-enacted in § 4 of the revision.]**

§ 14. He may, from time to time, cause to be published at the expense of this state, in one or more of the newspapers printed therein, such laws of this state, or extracts therefrom, relating to the payment of monies due to this state, or the duties to be performed by the public officers thereof, as he may deem necessary.

**[Omitted as obsolete.]**

§ 15. Whenever the comptroller shall be satisfied that monies have been paid into the treasury through mistake, he may draw his warrant therefor on the treasurer, in favor of the person who may have made such payment; but this provision shall not extend

(R. S., pt. I, ch. VIII, tit. 3; R. S., 8th ed., 507.)

to payments on account of taxes, nor to payments on bonds and mortgages.

**[Re-enacted in § 14 of the revision, without material change.]**

§ 16. All leases, mortgages, bonds, and other securities for money given to the people of this state, unless otherwise specially directed, shall be deposited and kept in the office of the comptroller.

§ 17. The certificates for stock of any kind, owned by the people of this state shall be deposited, for safekeeping, in such banks as the comptroller may select.

**[Sections 17, 18, re-enacted in § 6 of the revision, without change in substance.]**

(R. S. part I, ch. VIII, tit. 3; R. S. 8th ed., p. 514.)

§ 19. Whenever the comptroller shall deem it expedient, he shall issue a notification, in the name of the people of this state, to any person who shall have received monies belonging to the state, for which he shall not have accounted. In case of the death of such person, the notification shall be directed to his legal representatives.

§ 20. Such notification shall require, that within a limited period, not less than sixty nor more than ninety days from the date thereof, all the accounts and vouchers for the expenditure of such monies, shall be rendered to the comptroller.

§ 21. Such notification shall be served by the sheriff of the county where the person, to whom the same shall be directed, shall reside, by delivering a copy thereof to him, or by leaving such copy at his usual place of abode, at least forty days before the time limited in the notification for rendering such accounts and vouchers.

§ 22. The return of such notification to the comptroller's office, with the certificate of the sheriff indorsed thereon, that the service has been made by delivering a copy of the notification to such person, or by leaving such copy at his usual place of abode, shall be conclusive evidence of the proceedings.

**[Sections 20-23 are re-enacted in § 22 of the revision, without change in substance.]**

§ 23. In case the party shall fail to render such accounts and vouchers, within the time limited in such notification, the comptroller shall state an account against him, charging interest at the rate of seven per cent. per annum, from the time the notification was served, and shall deliver a copy of such account to the attorney-general for prosecution.

(R. S., pt. I, ch. VIII, tit. 3; R. S., 8th ed., 515.)

§ 24. Such copy, certified by the comptroller, shall be sufficient evidence to support an action for the balance therein stated, subject to the right of the defendant to plead and give, in evidence, all such matters as shall be legal and proper for his defence or discharge.

§ 25. The party so sued, shall be subject to the costs and charges of suit, whether the ultimate decision be against him, or in his favor, unless sued as the representative of the original party

**[ Sections 23-25 are re-enacted in § 23 of the revision, without change in substance. ]**

§ 26. Whenever accounts and vouchers are rendered within the time limited in a notification, or without any notification being issued, the comptroller shall proceed immediately to examine the same, and if such accounts and vouchers are regular and sufficient, shall liquidate and settle them; but if any of the necessary vouchers are wanting, or are, in his opinion, insufficient, he shall give notice to the party, and require him to supply such defect, within the period of not less than sixty, nor more than ninety days; and at the expiration of the time limited, the comptroller shall liquidate and settle such accounts, upon the vouchers and proofs which shall have been delivered to him.

§ 27. When the comptroller shall have settled any such account, he shall transmit a copy of the account, as settled by him, to the party; and if any balance is certified to be due to the state, and the same shall not be paid to the treasurer within ninety days thereafter, the comptroller shall deliver a copy of such account to the attorney-general, for prosecution.

§ 28. Such copy, certified by the comptroller, shall be sufficient evidence to support an action for the balance therein stated, subject to the right of the defendant, to plead and give in evidence all such matters as shall be legal and proper for his defence or discharge.

§ 29. If any such defendant shall, upon the trial in any such action, give any evidence other than such as was produced to the comptroller, such defendant shall be subject to the costs and charges of such suit, whether the ultimate decision shall be against him, or in his favor.

**[ §§ 26--29 are re-enacted in § 24 of the revision without change in substance. ]**

§ 30. Where any number of persons shall have received any monies for which they are accountable to the state, the comptroller may, in his discretion, settle the accounts of any one or more of them, separately.

(R. S., pt. I, ch. VIII, tit. 3; R. S., 8th ed., 515-16.)

§ 31. In such case, no person shall be allowed to plead in abatement, to any suit to be brought for any balance which shall be certified to be due from him or them, or to give in evidence upon the trial thereof, that any other person was concerned with him or them, in the receipt or expenditure of the said monies.

【Sections 30. 31 are re-enacted in § 25 of the revision, without change in substance.】

§ 32. Nothing in this article contained shall be construed to impair any legal remedy which might be used, if this article was not in force, for the recovery of any debt due or to become due to the people of this state.

【Re-enacted in § 26 of the revision without change in substance.】

§ 33. It shall be the duty of the comptroller, on application to him for that purpose, to open accounts in his office against any person, for any part or subdivision of any lot of land purchased from, or mortgaged to the state, for the proportionate part of the monies due to the state on any such part or subdivision, and thereafter to give credit for the payments on the several parts or subdivisions, as the persons making such payments may require.

§ 34. The comptroller may pass any prior payments, to the credit of any part or subdivision, which shall appear by satisfactory proof, to have been originally intended to be paid on such part or subdivision, or by, or for the use of, the person claiming the credit, whether so expressed in the receipts or not; but no part of any such payments shall go to the reduction of the principal due on any such part or subdivision, unless the payments shall exceed the interest, calculated on the principal due, on such part or subdivision, to the day when such part or subdivision is to be paid off, or a new account to be opened therefor.

§ 35. Where it appears that separate receipts were given by the treasurer, for any payments which may be claimed to be credited to the account of any such part or subdivision, the receipts shall be delivered up to the comptroller, to be filed in his office.

【Sections 33-35 are re-enacted in § 31 of the revision, without change in substance.】

§ 36. Whenever any mortgage given to the people of this state shall be paid, the treasurer's receipt, countersigned by the comptroller, setting forth that the whole sum due on any such mortgage has been paid, shall be a sufficient discharge of such mortgage; and the secretary of state or county clerk, in whose office any such mortgage shall have been registered, shall enter a minute of such payment on the margin of the registry of such mortgage.

(R. S., pt. I, ch. VIII, tit. 3; R. S., 8th ed., 517.)

§ 37. When any part or subdivision, for which a separate account has been opened, shall have been fully paid, the comptroller shall, if the same be a part or subdivision of a lot mortgaged to the people of this state, discharge the same from such mortgage; and his certificate shall be sufficient to authorize the secretary of state or county clerk to enter a minute of such payment on the margin of the registry of such mortgage.

§ 38. If the part or subdivision so paid off, be a part or subdivision of a lot purchased from, but not granted by the state, then the comptroller shall certify that such part or subdivision has been so paid off.

§ 39. The comptroller may also execute the like discharge or certificate, whenever the owner of any such part or subdivision, shall have paid into the treasury, the full proportion of principal and interest due thereon, though no separate account shall have been opened therefor.

**[Sections 36-39 are re-enacted in § 32 of the revision, without change in substance.]**

§ 40. Every person claiming the benefit of the thirty-third and thirty-ninth sections of this title, shall produce a map and return of survey of the whole lot, showing particularly the part or subdivision owned by him, and shall also produce satisfactory proof, that the residue of the lot is sufficient security for the sum remaining due thereon.

**[Re-enacted in § 31 of the revision without change in substance.]**

§ 41. The comptroller may, in his discretion, on the request in writing of the owner or owners of any land mortgaged to the people of this state, who shall then be in the actual possession of such land, assign such mortgage, together with the bond or other collateral instrument accompanying the same, to such person as shall be named by such owner or owners; on the payment by such assignee, into the treasury, of the amount of principal and interest due on such mortgage.

**[Section 41 is re-enacted in § 36 of the revision without change in substance.]**

(R. S., part I, ch. VIII, tit. IV; R. S., 8th ed., p. 518.)

Section 1. The treasurer shall receive all monies which shall, from time to time, be paid into the treasury of this state.

**[Re-enacted in § 3 of the revision, without change in substance.]**

§ 2. The treasurer shall within ten days after he receives notice of his election, and before he enters upon the execution of his

(R. S., pt. I, ch. VIII, tit. 4; R. S., 8th ed., 518.)

office, give a bond to the people of this state in the sum of fifty thousand dollars, with not less than four sufficient sureties, to be approved of by the president of the senate and speaker of the house of assembly, conditioned that he will faithfully execute the duties of his office; which bond shall be deposited in the office of the secretary of state.

§ 3. Such bond shall be deemed to extend to the faithful execution of the office of treasurer, by the person elected thereto, until a new appointment of treasurer be made, and a new bond given, under such appointment.

§ 4. After such new appointment shall have been made, and such new bond given, upon the filing in the office of the secretary of state, of a certificate from the committee who shall have examined and settled the accounts of the treasurer of the preceding year, expressing that such accounts are regularly stated and balanced, and that the balance, if any there be, in monies, securities, and other effects, is actually in the treasury, or deposited as by law directed, the bond given by such treasurer and his sureties shall be discharged, and delivered up to be canceled.

**[Sections 2-4 are repealed and not re-enacted. The bond of the treasurer is provided for in The Executive Law, § 41.]**

§ 5. The treasurer shall pay all warrants drawn by the comptroller on the treasury; and no monies shall be paid out of the treasury, except on the warrant of the comptroller.

§ 6. The treasurer shall exhibit to the legislature, at its annual meeting, an exact statement of the balance in the treasury to the credit of the people of this state; with a summary of the receipts and payments of the treasury during the preceding year.

**[Sections 5, 6 are re-enacted in § 3 of the revision without change in substance.]**

§ 7. The treasurer shall deposit all monies that shall come to his hands, on account of this state, except such as belong to the canal fund, within three days after receiving the same, in such bank or banks in the city of Albany, as in the opinion of the comptroller and treasurer, shall be secure, and pay the highest rate of interest to the state for such deposit.

**[Re-enacted in § 8 of the revision without change in substance.]**

§ 8. All monies directed by law to be deposited in the Manhattan bank, in the city of New York, to the credit of the treasurer, shall remain in said bank, subject to be drawn for as the same may be required.

§ 9. The comptroller may transfer the deposits in the Manhattan bank from time to time to the bank or banks in the city

(R. S., pt. I, ch. VIII, tit. 4; R. S., 8th ed., 519.)

of Albany, in which the monies belonging to this state shall be deposited, pursuant to the foregoing seventh section of this title, so often as it will be for the interest of the state to transfer such deposits; but the comptroller may continue such deposits in the Manhattan bank, if the said bank shall pay a rate of interest to the state for such deposits, equal to that paid by the bank or banks in Albany, in which the state deposits shall be made.

**[Repealed and omitted from the revision as obsolete.]**

§ 10. The monies so deposited shall be placed to the account of the treasurer and he shall keep a bank book, in which shall be entered his account of deposits in, and monies drawn from, the banks in which such deposits shall be made.

§ 11. The said banks shall respectively transmit to the comptroller, monthly statements of the monies which shall be received and paid by them on account of the treasury.

§ 12. The treasurer shall not draw any moneys from such banks, unless by checks subscribed by him as treasurer, and countersigned by the comptroller; and no moneys shall be paid by either of the said banks, on account of the treasury, except upon such checks.

§ 13. The treasurer shall exhibit his bank book to the comptroller for his inspection, on the first Tuesday in every month, and oftener, if required.

**[Sections 10-13, are re-enacted in § 8 of the revision, without change in substance.]**

(R. S., part I, ch. IX, tit. 2; R. S., 8th ed., p. 563-4.)

Section 1. The canal fund shall continue to consist of the following property:

1. Lands granted for the construction of the canals, by the state, by companies, or by individuals, and remaining unsold.

2. Debts due for such portions of said lands, as have heretofore been sold.

3. The tolls and commutation moneys, imposed on and collected from such navigable communications belonging to the state, as now are or hereafter shall be made and completed.

4. Duties on the manufacture of all salt, as established by the act of the fifteenth of April, one thousand eight hundred and seventeen.

5. Proceeds of all duties on goods sold at auction, excepting therefrom the annual sum of thirty-three thousand five hundred dollars, otherwise appropriated by the said act.

6. All moneys received for the sale or use of the surplus waters of any canal belonging to this state; and,

(R. S., pt. I, ch. IX, tit. 2; R. S., 8th ed., 564.)

7. All moneys recovered in suits for penalties or damages, instituted under the canal laws.

[Section 1, subs. 1, 2, 6 and 7 are re-enacted in § 60 of the revision, without change in substance. Subs. 3-5 are omitted as obsolete.]

§ 2. Such parts of the said fund as are designated in the tenth section of the seventh article of the Constitution of this state, are to be and remain inviolably appropriated and applied to the completion of the navigable communications specified in that section, and to the payment of the interest, and the reimbursement of the capital of the money borrowed to make and complete the same. And rates of toll not less than those agreed to by the canal commissioners, and set forth in their report to the legislature of the twelfth of March, one thousand eight hundred and twenty-one, are to be imposed on and collected from all parts of such navigable communications.

§ 3. Neither such rates of toll, nor the duties on the manufacture of salt, nor the duties on goods sold at auction, can be reduced or diverted at any time, before the full and complete payment of the principal and interest of the money borrowed as aforesaid.

[Sections 2, 3 are repealed and omitted as obsolete.]

§ 4. The canal fund shall continue to be superintended and managed by the commissioners of the canal fund, a majority of whom, including the comptroller, shall be a quorum for the transaction of business; but the care and disposition of all lands belonging to the canal fund, shall be vested in the commissioners of the land-office.

[Re-enacted in § 61 of the revision without change in substance.]

§ 5. It shall be the duty of the commissioners of the canal fund, to manage, to the best advantage, all things belonging to that fund; to recommend from time to time to the legislature, the adoption of such measures as may be thought proper by them for the improvement of the fund; and to report to the legislature, at the opening of every session thereof, the state of the fund.

[Re-enacted partly in § 61 of the revision; the last two clauses are re-enacted in § 66 of the revision.]

§ 6. The commissioners shall advance to each of the superintendents of canal repairs, such sums as in their opinion shall be required in the execution of their duties, not exceeding at any one time, five thousand dollars.

§ 7. The commissioners of the canal fund shall, from time to time, apply the surplus revenues of the canal fund, after paying

(R. S., pt. I, ch. IX, tit. 2; R. S., 8th ed., 565.)

the interest of the canal debt, to the purchase of canal stock of this state, if in their opinion such stock can be purchased upon advantageous terms. And the certificates of stock so purchased shall be cancelled.

§ 8. Whenever the commissioners shall be unable to purchase canal stock upon terms by them deemed advantageous to the state, they may invest such surplus revenues in the public stocks of the United States, or any public stock created by the corporation of the city of New York or Albany, and from time to time may reinvest the interest or dividends upon such investments, as part of such surplus revenues.

§ 9. Whenever the commissioners of the canal fund shall be authorized to borrow money upon the credit of the state, they shall, previous to any loan to be made by them, give notice that sealed proposals will be received to a given day, and until a certain hour of such day, to be named in the notice; which notice shall be published in two newspapers, in each of the cities of New York and Albany, and continued for two weeks daily in the New York papers, and at least twice a week in the Albany papers. And the proposals received by them shall not be opened until the hour specified in such notice.

【Sections 6-9 are repealed and omitted from the revision as obsolete.

Sections 10-12 are not repealed by this revision. Their re-enactment should properly be included in the proposed canal law.】

§ 13. All monies expended in the construction, reparation or improvement of the canals now authorised by law, or allowed or expended by the commissioners of the canal fund under this title: or expended by the commissioners of the canal fund, the canal commissioners, or other officers or agents employed on such canals, pursuant to any law of this state, together with the compensation to such officers respectively (including the salaries of the canal commissioners), shall be charged to the canal fund; and the comptroller shall also charge to the canal fund, from time to time, so much for the services of the clerks in his office, devoted to the accounts and revenues of the canals, as in his opinion shall be just and proper.

【Re-enacted in § 63 of the revision without change in substance.】

(R. S., part I, ch. IX, tit. 6; R. S., 8th ed., p. 651.)

Section 1. All mortgages already executed, or hereafter to be executed to the people of this state, may be foreclosed, by giving notice, in the manner in which mortgagees are authorized to sell,

(R. S., pt. I, ch. IX, tit. 6; R. S., 8th ed., 651.)

under a power of sale; and every foreclosure so made, shall be an absolute bar of the equity of redemption, as against the mortgagor and all incumbrancers, subsequent to the state, and all persons claiming under him or them; and shall have the like effect against all parties in interest, except prior incumbrancers, as if the mortgage had been foreclosed in a court of equity.

§ 2. In all cases of foreclosure by notice, such notice shall be given by the attorney-general, who shall conduct the proceedings necessary to perfect every such foreclosure, and shall execute a proper conveyance, without warranty, to the purchaser.

§ 3. Whenever, in his judgment, it shall be proper, the attorney-general may proceed to foreclose the equity of redemption, in any lands mortgaged to the people of this state, in the court of chancery, or in the equity court of the district in which the lands may be situate.

【Sections 1-3 are re-enacted in § 27 of the revision, without change in substance, except that the procedure is therein made to conform with that provided by law in ordinary cases of mortgage foreclosure. Civ. Code, §§ 1626-1637, 2387-2409.】

§ 4. Whenever any premises mortgaged to the people of this state, shall be advertised for sale, it shall be lawful for the attorney-general, at any time before the premises are actually struck off, to postpone the sale at his discretion, for the purpose of enquiring into the value of the premises; and to employ such person or persons as he shall select, to appraise the same.

§ 5. The persons employed by the attorney-general to make any such appraisement, shall receive a reasonable compensation for the same, to be settled and allowed by the comptroller, and to be paid out of the treasury.

§ 6. If the mortgaged premises are appraised at a sum equal to, or exceeding, the amount due the state, including costs and expenses, the attorney-general, on the sale of said premises, shall bid therefor in behalf of the people of the state, to the amount of the monies due and costs, in case such bidding shall be rendered necessary to prevent the sale of such premises, for a less sum.

§ 7. If the mortgaged premises are appraised at a sum less than the amount due the state, the attorney-general shall in like manner bid to the amount of such appraisement and no more.

§ 8. Whenever any mortgaged premises shall be struck off to the attorney-general, for an amount less than the amount of mortgage money, interest and costs, no greater sum shall be credited to the mortgagor or any other person, on account of such sale than the

(R. S., pt. I, ch. IX, tit. 6; R. S., 8th ed., 652.)

amount bid for the premises sold, deducting therefrom all costs and charges of sale.

【Sections 4-8 are re-enacted in § 28 of the revision, without change in substance, except that in the revision the comptroller is given the duties relating to the bidding in of premises sold on foreclosure, now vested in the attorney-general.】

§ 9. In all cases of such sales, whether under a notice or decree, if the mortgaged premises are not purchased for the benefit of this state, the attorney-general shall, if the mortgage bear an interest not exceeding six per cent., require of the purchaser, at the time of sale, such sum as shall be equal to the costs and expenses of sale, and the one-fourth part of the monies due the state, and for securing the remainder of the monies due the state, he may, on the execution of a deed to the purchaser, accept a bond and mortgage on the premises, sold, from the purchaser, to the people of this state, payable in six equal yearly instalments, with interest, at the rate of six per cent. per annum.

§ 10. If the mortgage bear an interest of seven per cent. per annum, the attorney-general shall require of the purchaser, at the time of sale, the payment of the interest in arrear, with the costs and expenses of sale, and one-fourth part of the principal of such mortgage; and for the remainder, on the execution of a deed to the purchaser, he may accept from such purchaser a bond and mortgage, for the residue of the mortgaged money, to the people of this state, payable in six equal yearly instalments, with lawful interest; provided the title to the lands to be mortgaged, shall be clear, and the lands, exclusive of the buildings thereon, shall be worth double the principal of such new mortgage.

§ 11. If the mortgaged premises shall sell for a greater sum than the amount due the state, and the costs and expenses of such sale, the attorney-general shall also require of the purchaser, at the time of sale, the payment of such surplus.

【Sections 9-11 are re-enacted in § 29 of the revision without change, except that the duties of the attorney-general under these sections, are transferred by the revision to the comptroller.】

§ 12. Upon every such sale, the attorney-general shall execute a certificate thereof to the purchaser, specifying the terms of the sale, and the amount paid by the purchaser; and in case the mortgaged premises shall be redeemed as hereinafter provided, the sale shall be void and of no effect.

§ 13. Whenever any mortgaged premises shall be sold, either under a notice or a decree, it shall be lawful for the mortgagor, or his heirs or assigns, to redeem the same, at any time within sixty days after such sale.

(R. S., pt. I, ch. IX, tit. 6; R. S., 8th ed., 653.)

§ 14. Upon every redemption, the party redeeming shall pay into the treasury the full amount due the state and charged on said premises, together with the costs and expenses of such sale, and interest on the whole sum at the rate of ten per cent. per annum from the time of sale to the time of redemption; and if the premises were sold for a greater sum than the amount due the state and such costs and expenses, he shall also pay into the treasury the like interest on the surplus monies.

§ 15. If the premises redeemed shall have been purchased by the attorney-general for the benefit of the state, the amount of the costs and expenses of the sale shall be paid out of the treasury to the attorney-general: if the premises were not so purchased, there shall be paid out of the treasury to the purchaser, the sum actually paid into the treasury by him, together with the amount of interest thereon, at the rate of ten per cent received from the person redeeming.

§ 16. Whenever any mortgaged premises purchased by the attorney-general for the benefit of the state, shall not be redeemed, he shall, if the premises were sold by him, immediately after the time allowed for redemption, and if the premises were sold under a decree, immediately after he shall have received a conveyance therefor, execute to the people of this state, a proper conveyance of said premises, which shall vest in the people the same title as would have been acquired by any other purchaser, at such sale, under a conveyance executed in pursuance thereof.

**[Sections 12-16 are repealed and not re-enacted, as the laws relating to ordinary mortgages are made to apply to state mortgages and the equity of redemption is therefore taken away.]**

§ 17. Whenever any mortgaged premises are so purchased by the attorney-general, and not redeemed, all the expenses incurred by the attorney-general, in the sale thereof, shall be paid to him out of the treasury.

**[Re-enacted in § 29 of the revision,**  
without change in substance, except the substitution in the revision of the comptroller for the attorney-general.]

§ 18. Whenever any premises mortgaged to the people of this state, shall be sold and purchased by any person other than the attorney-general, and not redeemed, a conveyance shall be executed to such purchaser, his heirs, or assigns, at the expiration of the time allowed for redemption, on payment, by him or them, of the balance of the purchase money, on the execution of the proper securities therefor. (Thus amended by L. 1847, chap. 99.)

(R. S., pt. I, ch. IX, tit. 6; R. S., 8th ed., 653-54.)

§ 19. Whenever any premises mortgaged to the people of this state, shall be advertised for sale, whether the foreclosure be by notice or decree, the terms of the sale shall be specified in the advertisement.

§ 20. In all cases of foreclosure by notice, the attorney-general shall file the affidavits of the publication of the advertisement of sale, and of the circumstances respecting the sale, in the office of the secretary of state, to be there recorded; and such affidavits, or the record thereof, shall have the like effect, as if the same had been recorded in the office of the clerk of the county where the premises are situate.

【Sections 18-20 are not re-enacted. The revision changes this form of procedure to the ordinary procedure in mortgage foreclosures, and their re-enactment therefore, becomes unnecessary.】

(Laws 1830, ch. 184; R. S. 8th ed., p. 606.)

Section 1. The comptroller, under the direction of the commissioners of the canal fund, is hereby required to transfer to the literature fund, as of the first of January last, the bonds and mortgages now in his office, given for lands sold which belong to the Oswego canal fund, for five per cent canal stock which is now held by the regents of the university as a part of the literature fund; and the regents of the university shall transfer to the commissioners of the canal fund, so much of the five per cent canal stock held by them, as shall be equal to the amount of said bonds.

§ 2. The said stock, when received by the commissioners of the canal fund, shall be credited, or so much thereof shall be credited, on the debt due from the Oswego to the Erie and Champlain canal fund, as will satisfy the debt now due from the former to the latter fund, and the certificates of stock to that amount shall be cancelled.

§ 3. The residue of the stock which shall be so transferred, beyond the amount necessary to pay the Oswego canal debt now due to the Erie and Champlain canal fund, shall be redeemed by the said commissioners out of the surplus revenue of the Erie and Champlain canal, the certificates of stock cancelled, and the amount credited to the Oswego canal fund.

§ 4. The interest due upon the bonds authorized to be transferred by this act, at the time of such transfer, shall be entered and considered as a part of the capital of the literature fund; and whenever an amount of interest shall be paid upon the said bonds, equal to the amount due at the time of such transfer, such

amount shall be invested as a part of the capital of the literature fund.

【This law is repealed and not re-enacted, being temporary and now obsolete.】

(Laws 1830, ch. 242; R. S. 8th ed., 607.)

[Sections 1 and 2 of this act are omitted as temporary.]

§ 3. The commissioners of the canal fund shall, from time to time, prescribe such rules and regulations, to be in accordance with existing statutory provisions, relative to the transfer of all or any of the public stocks of this state, and the devision and consolidation of the certificates thereof, as they shall think advisable and proper; and may alter and modify the same. The said commissioners may also require such returns to be made to the comptroller, by the officer or person authorized by law to transfer said stocks, and pay the interest on any loan, as they may deem reasonable and expedient.

【Re-enacted in § 64 of the revision, without change in substance.】

(Laws 1831, ch. 286; R. S., 8th ed., p. 566.)

Section 1. The commissioners of the canal fund may deposit the monies belonging to the said fund with any safe incorporated monied institutions or banking associations, in this state, and may make such contracts with such institutions for the interest on and duration of such deposits as shall be most promotive of the interests of said fund. (Thus amended by L. 1852, chap. 370, sub. nom., "section 16 of chap. 9 of tit. 2 of part 1, of the R. S.")

§ 2. The said commissioners shall, in their annual report to the legislature, specify the institutions holding all such deposits, the amount of each, and the rate of interest paid thereupon.

【Re-enacted in § 62 of the revision without change of substance.】

(Laws 1831, ch. 320; R. S., 8th ed., p. 607.)

Section 1. The comptroller, in conjunction with the superintendent of common schools, is hereby authorized and directed to select from the bank stock and bonds and mortgages belonging to the general fund, a portion thereof, sufficient to discharge the balances due by that fund to the common school and literature funds, and to transfer the stock and securities so selected, to the said funds respectively, to the amount of their respective balances.

§ 2. It shall be the duty of the comptroller, from time to time, to prepare and deliver to the cashier of the Manhattan company,

(L. 1831, ch. 320; R. S., 8th ed., 607.)

or such other officer as shall at any time be designated or authorized to issue certificates of stock created or to be created under the laws of this state, suitable books, containing certificates of stock, of the form and description, as near as may be, as are now used; which said certificates shall be filled up in the handwriting of said comptroller, or such one of the clerks in his office as he shall from time to time designate, of the following denominations: one dollar, fifty dollars, one hundred dollars, three hundred dollars, five hundred dollars, one thousand dollars, three thousand dollars, five thousand dollars, ten thousand dollars, and twenty thousand dollars; and said certificates shall be numbered and signed by the comptroller, with the addition of his name of office. Said books shall also be prepared with broad and proper margins, in which shall be written out, at length, the denominations or amounts of said certificates, with the corresponding numbers, and shall be signed by the comptroller.

§ 3. It shall be the duty of the cashier of the Manhattan company, or such other officer as shall be authorised or designated to issue certificates of stock, to preserve all certificates returned to him; and whenever he shall issue certificates of stock, after he shall be furnished with the books in the last section mentioned, he shall take them from said books, and sign and date the same; and he shall write in the margin the date when, and the person to whom, any certificate shall have been issued.

§ 4. On the fourth Monday of September in each year, it shall be the duty of the comptroller to receive from the said cashier or other officer as aforesaid, all such books, the certificates from which shall have been cut, and to receive and compare therewith the certificates of stock returned; and if the amounts correspond, after the necessary allowance for any new stock authorised to be issued by this state, to furnish said cashier or other officer with the proper voucher thereof.

§ 5. It shall be the duty of the comptroller to preserve the books and certificates returned (after seeing that said certificates are cancelled), in some proper and safe place of deposit.

§ 6. It shall be the duty of the comptroller to give notice, in two of the public newspapers printed in the city of New York, and in such other papers as he shall deem proper, and to renew the same from time to time, that new certificates of stock will be issued, of the form pointed out in the second section of this act, and to request the holders of certificates of stock to surrender and cancel their old and receive such new certificates.

§ 7. It shall be the duty of said cashier, or such officer as shall be designated in his place as aforesaid, whenever any certificate

(L. 1831, ch. 320; R. S., 8th ed., 608.)

of stock shall be surrendered and cancelled as aforesaid, to issue new certificates from the aforesaid books, and to write in the margin thereof, "stock surrendered;" and the certificates so cancelled, shall be preserved and delivered to the comptroller.

§ 8. In case any one of the denominations of certificates does not correspond with the stock transferred or cancelled as aforesaid, certificates of different denominations may be issued to meet the amount; and in case the holders of stock prefer selling the fractional parts of their stock, less than one hundred dollars, to receiving certificates therefor, the said cashier, or other officer appointed in his place, is directed to purchase any said fractional parts; and the comptroller is directed to pay over to said cashier, or other officer designated in his place, the necessary moneys to meet advances under this section, and charge the same to the funds of the Erie and Champlain canals.

§ 9. It shall be the duty of the comptroller, to obtain from the cashier of the Manhattan company, on or before the thirtieth day of September next, a statement of all certificates of stock, issued by the said cashier in behalf of this state, in which shall be specified the date of every such certificate, its amount and the person to whom issued.

§ 10. The comptroller shall, on or before the first day of September next, prepare a schedule of all debts due this state, which constitute a part of the general fund, and were contracted during or previous to the year one thousand eight hundred and twenty-one, and for which the state hold no security by way of mortgage or otherwise on real estate and the real estate mortgaged for the security thereof has been sold or disposed of, and of all such debts belonging to the general fund, upon which no payment for principal or interest has been made within the last six years; which said schedule shall contain the name of the debtor, the amount due for principal and interest, and the time when the debt was contracted.

§ 11. As soon as said schedule is prepared, or before that time, he shall cause notice to be published in the state paper, that said schedule has been or will be prepared, and that unless the said debtors shall, on or before the first day of November thereafter, to be inserted in said notice, pay or compromise their respective debts, the schedule of those not settled, will be advertised for thirty days, in the state paper, for sale, and will be then sold at public auction; and the notice required by this section shall be published for thirty days.

§ 12. It shall be the duty of the comptroller, on or before the fifth day of November next, to advertise for public sale, the stock

(L. 1831, ch. 320; R. S., 8th ed., 608.)

belonging to this state in the bank of Hudson and in the bank of Columbia, and also the debts specified in the tenth section, which shall not have been paid, or which shall not have been compromised according to the provisions of this act; which said advertisements shall be published twice a week, for five weeks in the state paper, and shall specify the time and place of sale.

§ 13. It shall be the duty of the comptroller, to sell at public auction, the stock specified in the last section, and all such debts as shall have been so advertised, and which shall not have been paid or compromised before the time of such sale, at such time and place in the city of Albany, as shall be designated in said notice, unless the said comptroller shall become satisfied as to any of said debts, that they ought not to be sold, but retained for prosecution.

§ 14. On such sale, the comptroller is authorised and directed to transfer to the highest bidder, any debt purchased by him; and the securities therefor held by the state, and the amount of said bid shall be paid at the time thereof, or the said debt shall again be put up, and the highest bidder aforesaid charged with the deficiency; and the said comptroller is directed to furnish to the purchaser a certificate of said transfer; and said certificate shall vest in the purchaser, all the rights of the people of the state of New York in said debt, and the right to commence suits thereon in his own name, as assignee of the state of New York; but said transfer or certificate shall not be considered as affording any guarantee or engagement, on the part of the state, of the legality, validity or amount of said debt, or to render it liable for any costs or charges arising from efforts to collect the same.

§ 15. The comptroller is hereby authorized to compromise any of the debts mentioned in the tenth section of this act, and to give releases therefrom; and he may require the oath of the debtor or his representatives as to the extent of his or their ability to pay.

**[Sections 1-15 are repealed and omitted from the revision as obsolete.]**

§ 16. In addition to the fees of office which the comptroller is now by law permitted to charge, he shall charge the same fees for copies of papers, records, engrossing, seal and certificate to be used in a court of justice, as are now chargeable by the secretary of state, and account for the same in the same manner.

**[Fully covered by § 32 of the Executive Law and therefore not re-enacted.]**

§ 18. It shall be the duty of the comptroller, in preparing his annual statement of the funds, to be laid before the legislature

(L. 1831, ch. 320; R. S., 8th ed., 609.)

for the year one thousand eight hundred and thirty-two, to ascertain the amounts of the three following items of the general fund: First, for lands sold or contracted to be sold: second, for loans: third, for other debts due the state, from an examination of the securities constituting said items. And also to specify the several debts due the state, and belonging to said fund, for which the state hold no security by way of mortgage or lien on real estate, and when said debts fell due; and the statement to be exhibited every three years thereafter, shall be prepared in like manner: and every annual statement shall specify the amount due for interest on the three items above named, calculated to the day when the last fiscal year closed.

【Repealed and not re-enacted in substance, but § 4, subd. 6 of the revision fully covers all the provisions of this section.】

§ 19. There shall be paid by the treasurer, on the warrant of the comptroller, a sum not exceeding two thousand dollars, for clerk hire for the comptroller's office during the present year, in addition to the permanent appropriation for that object, now existing by law; and the said money, or so much thereof as it shall be necessary to expend, shall be drawn, expended and accounted for, in the same manner that other moneys are directed by law to be drawn, expended and accounted for, which are appropriated for clerk hire for the same office.

【Fully covered by § 30 of the Executive Law.】

§ 20. There shall be allowed annually to the treasurer the sum of one thousand three hundred dollars, for clerk hire in his office, instead of the present appropriations for said office; which said sum shall be drawn and expended in the same manner as that appropriated for clerk hire in the office of the comptroller is directed to be drawn and expended, to commence on the first of May next.

【Fully covered by § 40 of the Executive Law.】

§ 21. The treasurer is hereby authorized to appoint a deputy-treasurer, who may perform any of the duties of the treasurer, (except the signing of checks, and the duties of the treasurer as commissioner of the land-office, commissioner of the canal fund, and state canvasser,) and for whose conduct the treasurer shall be responsible.

【Fully covered by § 42 of the Executive Law.】

§ 22. Accounts of sheriffs for paying the fees of clerks of counties for drawing grand juries, for attending the drawing of grand juries, and for summoning constables to attend courts, shall hereafter be presented to and audited by the boards of supervisors

(L. 1831, ch. 320; R. S., 8th ed., 610.)

of the counties respectively in which such service shall be rendered, and such accounts shall not hereafter be chargeable to this state.

【Fully covered by § 230 of the County Law.】

§ 23. All laws authorizing the payment of any moneys for incidental expenses attending Indian affairs are hereby repealed, and all annuities payable to Indians shall hereafter be paid by such agents residing in the vicinity of the Indians entitled thereto, as shall be authorized for that purpose by the comptroller; and such agents shall receive such compensation for their services, not exceeding one per cent on the amount disbursed by them, as the comptroller shall allow; a sum not exceeding five hundred dollars in any one year, may be drawn from the treasury by the person administering the government of this state, for incidental expenses in relation to Indian affairs, which sum shall be accounted for to the comptroller, with the vouchers for which it may be paid.

【Repealed and not re-enacted, it is omitted as obsolete. The Indian Law supersedes this section.】

§ 24. The present fiscal year of the office of the treasurer of this state shall close on the thirtieth day of September next; and the future fiscal years of that office shall be from the first day of October in the preceding, to the thirtieth day of September in the succeeding year, inclusive.

§ 25. All books and accounts in the office of the comptroller shall be kept, and all the duties of that office shall be performed, with reference to the aforesaid change in the fiscal year of the treasurer's office, and in accordance with that change.

§ 26. All officers and persons required to render annual accounts to the comptroller or treasurer, shall close those accounts on the thirtieth day of September in each year, and shall render such accounts as soon after that day, in every year, as may be practicable.

【Sections 24-26 are re-enacted in § 2 of the revision, without change in substance.】

§ 27. The annual report required from the commissioners of the canal fund, shall exhibit a statement of the funds entrusted to their care and management, from the first day of October in every preceding year, to the thirtieth day of September in every subsequent year, inclusive, and the accounts of the said funds in the comptroller's office, shall be kept in accordance with the provisions of this section; but the said commissioners, separate from their annual report above mentioned, shall prepare

(L. 1831, ch. 320; R. S., 8th ed., 610.)

and lay before the legislature, with their annual report in each year, a full statement of all the tolls collected upon all the canals of the state during the season of navigation next preceding such session; and also a statement of the rates of toll on all articles transported on said canals, and a comparative statement showing the amount fixed by the Constitution, and the amount charged.

§ 28. All acts and parts of acts of the legislature of this state, inconsistent with or repugnant to any of the provisions of the preceding sections of this act, are hereby repealed.

【Sections 27, 28 are repealed and omitted as obsolete.】

(Laws 1832, ch. 296; R. S., 8th ed., p. 610.)

Section 1. Whenever there shall not be money in the treasury belonging to the general fund, sufficient for the purposes of the government, the comptroller shall take money belonging either to the common school or literature fund, and shall assign to the fund to which the money so taken belonged, an equal amount of good bonds and mortgages, or other good securities belonging to the general fund. In all cases of such assignment to the literature fund, the comptroller shall give notice to the chancellor or secretary of the regents of the university; and in case of all such assignments to the common school fund, the comptroller shall give notice to the superintendent of common schools; and upon such notice, the said chancellor, or secretary, or superintendent, shall attend to such assignment; and no bond or mortgage, or other security shall be so assigned to the literature fund without the consent of the said chancellor or secretary, or to the common school fund, without the consent of the superintendent, which consent shall be endorsed upon the bond and mortgage, or other security so assigned. The interest accrued and unpaid upon the bonds and mortgages, or other securities so assigned, shall be added to the principal, and deemed part of the amount thereof.

§ 2. When there shall not be money in the treasury belonging either to the general fund, the literature fund, or the common school fund, and the money shall be needed for the purposes of the government, the comptroller shall give notice thereof to the commissioners of the canal fund, and they shall redeem with money belonging to the Erie and Champlain canals, the Erie and Champlain canal stock, held by and belonging to the literature and common school funds; and when all such stock shall be redeemed, the said commissioners shall purchase at par the stock of the Cayuga and Seneca, of the Oswego, and of the Hudson and Dela-

ware canals, held by and belonging to either the literature or common school funds, in the order here mentioned, and in such portions and parcels as the wants of the general fund shall require; and the stock so purchased shall be assigned to and held by the commissioners of the canal fund, for the Erie and Champlain canals.

**[This law is repealed and not re-enacted. It is obsolete.]**

(Laws 1833, ch. 56; R. S. 8th ed., p. 508.)

[Sections 1, 2, 3, 6 and 7 create and define the duties, etc., of the office of second deputy comptroller, which was abolished by L. 1877, chap. 27.]

§ 4. All papers relating to the canals, whether pertaining exclusively to the duty of the comptroller, or to the duties of the commissioners of the canal fund, or of the canal board, shall be deposited in the comptroller's office.

§ 5. Copies of all such papers as are mentioned in the preceding section, and extracts from the minutes of the orders and proceedings of the commissioners of the canal fund, and of the canal board, certified by the comptroller, shall, in all cases, be evidence equally, and in the like manner as the originals.

**[Section 4 is re-enacted in § 6 of the revision, without change in substance. Section 5 is fully covered by § 933 of the code of civil procedure.]**

(Laws 1835, ch. 260; R. S., 8th ed., p. 611.)

Section 1. The comptroller shall assign to the common school fund, all bonds and mortgages belonging to the general fund, and all bonds and mortgages which shall hereafter be received for account of the general fund, he shall annually, at the close of the fiscal year, assign as follows, viz.: First, such an amount thereof to the literature fund as shall be equal to the amount of capital that may at the time be due to that fund from the general fund; and second, the residue to the common school fund. The amount which shall be so transferred to the common school fund, shall be charged to that fund in the books of the comptroller's office, and shall be refunded to the general fund by current receipts into the treasury, on account of the capital of the common school fund.

§ 2. The comptroller shall assign to the common school fund, all bond and mortgages belonging to the literature fund, and all bonds and mortgages which shall hereafter be received for account of the literature fund, including such as shall be assigned to that fund pursuant to the preceding section, he shall assign to the

(L. 1835, ch. 260; R. S., 8th ed., 611.)

common school fund annually at the close of the fiscal year. And upon every such assignment, he shall at the same time transfer to the literature fund an equal amount of bank stock or public stock belonging to the common school fund.

§ 3. The comptroller shall assign to the common school fund, all bonds and mortgages belonging to the Erie and Champlain canal fund; and all bonds and mortgages which shall hereafter be received for account of the Erie and Champlain canal fund, he shall assign to the common school fund annually at the close of the fiscal year. Upon every such assignment he shall at the same time transfer to the commissioners of the canal fund an equal amount of canal stock belonging to the common school fund: And if the stock so transferred shall be Erie and Champlain canal stock, the said commissioners shall cancel the same; but if it shall be Oswego canal stock, it shall be held by them on account of the Erie and Champlain canal fund.

§ 4. The comptroller shall assign to the common school fund, all bonds and mortgages belonging to the Oswego canal fund; and all bonds and mortgages which shall hereafter be received for account of the Oswego canal fund, he shall assign to the common school fund annually at the close of the fiscal year. Upon every such assignment, he shall at the time transfer to the commissioners of the canal fund an equal amount of canal stock belonging to the common school fund; the stock so transferred shall be cancelled by the said commissioners; and if it shall be Erie and Champlain canal stock, they shall pay the amount thereof to the Oswego canal fund out of the moneys belonging to the Erie and Champlain canal fund.

§ 5. The bonds and mortgages directed by this act to be assigned immediately, and the stocks to be transferred at the same time, shall be so assigned and transferred as of the thirtieth day of September, one thousand eight hundred and thirty-four; but if there shall be any loss to the school fund by any of the bonds assigned to it by virtue of this act, the amount of such loss shall be repaid to the school fund from the general fund.

[This act is now obsolete, and is, therefore, repealed and not re-enacted.]

(Laws 1836, ch. 356; R. S., 8th ed., p. 612.)

Section 1. Whenever a sufficient amount of money shall have been collected and safely invested to pay the principal and interest of the debt created for the construction of the Erie and Champlain canals, it shall be the duty of the commissioners of the canal fund, annually, to loan to the treasury of this state, for the use

(L. 1836; 356; R. S., 8th ed., 612.)

and benefit of the general fund, from moneys belonging to the canal fund, the sum of four hundred thousand dollars.

§ 2. The comptroller shall so keep his accounts, as to be able at any time, to state an account between the canal fund and the general fund under this act; and the general fund shall stand charged on the books of the comptroller as a debtor to the canal fund, for all sums of money loaned from that fund to the general fund; and the faith of the state is hereby pledged to repay to the canal fund any amount that may be necessary to pay off and liquidate all debts and legal charges against the general fund, to the amount that may be loaned or advanced to the general fund under the provisions of this act.

§ 3. The sum of three hundred thousand dollars, reserved by the ninth section of the act entitled "An act in relation to the Erie canal," passed May 11, 1835, may be loaned under this act, and shall be considered as making part of the sum hereby authorized to be loaned when that section shall take effect.

[This act is repealed and not re-enacted. It has become obsolete.]

(Laws 1837, ch. 2; R. S., 8th ed., p. 572.)

Section 1. This state agrees to receive in deposit for safe keeping, its share of the surplus money of the treasury of the United States of America, under the thirteenth section of the act of congress, entitled "An act to regulate the deposits of the public money," passed June 23, 1836, upon the terms, conditions and provisions in said act contained; and the faith of the state is hereby inviolably pledged for the safe keeping and repayment of all sums of money thus received, from time to time, whenever the same shall be required by the secretary of the treasury of the United States under the provisions of said act.

§ 2. The treasurer of this state is hereby authorized to receive from time to time, the proportions of the public money to be deposited with this state, and safely to keep the same for the state, as the public funds of this state are kept, until otherwise directed by law; and he is authorized to sign and deliver to the secretary of the treasury of the United States, certificates of deposite, to be countersigned by the comptroller, for such sums as may be received in deposite; by which certificates the faith of the state shall be pledged for the safe keeping and repayment of all sums of money so received, whenever the secretary of the treasury from time to time shall require the same to be repaid, under the provisions of the act of congress aforesaid.

(L. 1837, ch. 2; R. S., 8th ed., 572.)

§ 3. The seventh section of title four of chapter eight of the first part of the Revised Statutes, is so far modified as to permit the treasurer to deposit the moneys which may from time to time be received by him under this act, in such bank or banks as in the opinion of the comptroller and treasurer shall be secure, and pay the highest rate of interest to the state for such deposit, until arrangements are made for the permanent investment of said moneys. All agreements for these deposits shall be in writing, one copy of which shall be filed in the comptroller's office; and the provisions of title third of chapter eight of the first part of the Revised Statutes, prescribing the duties of the comptroller in relation to moneys in the treasury, and the provisions of title four of the same chapter, prescribing the duties of the treasurer in relation to moneys in the treasury, shall apply to the moneys which may be deposited in any bank or banks by virtue of this act.

§ 4. The governor of this state is hereby required to transmit a copy of this act, exemplified by the secretary of this state, to the secretary of the treasury of the United States, as soon as may be after its passage.

【Section 1 of this act is partly re-enacted in § 52 of the revision, without change in substance.

Sections 2-4 are obsolete and are repealed without re-enactment.】

(Laws 1837, ch. 150; R. S., 8th ed., p. 572.)

Section 1. Such share of the surplus money of the treasury of the United States, as has been or shall be deposited with this state for safe keeping, under the thirteen section of the act of congress, entitled "An act to regulate the deposits of the public money," passed June 23, 1836, shall be apportioned among the several counties of this state, according to the population thereof, as ascertained by the last state census, for the purpose of being loaned therein in the manner hereinafter directed in this act.

【Section 1 is partly re-enacted in § 82 of the revision.】

§ 2. The governor shall nominate, and with the consent of the senate shall appoint two reputable inhabitants resident in each of the counties of this state, who shall be commissioners for loaning the moneys mentioned in the preceding section, in the several counties for which they shall respectively be appointed, and who shall hold their offices for the term of two years.

【Re-enacted in § 83 of the revision without material change.】

(L. 1837, ch. 150; R. S., 8th ed., 573.)

§ 3. The commissioners of each county respectively, before they enter upon the discharge of the duties of the said office, shall execute separate bonds to the people of the state of New York, with two or more sufficient sureties, to be approved of by at least two of the judges of the court of common pleas and the clerk of their respective counties, signified by indorsing their approbation on the back of the bond, which bond shall be in such penalty as the comptroller shall direct for such county, and conditioned for the true and faithful performance of the duties of their office without favor, malice or partiality.

**[Re-enacted in § 85 of the revision.]**

§ 4. Each commissioner shall respectively take the oath of office prescribed in article three of title six of chapter five of the first part of the Revised Statutes, before one of the officers authorized in said article to administer such oaths; which oath shall be endorsed on the said bond and signed by the officer before whom the same shall be taken, and the bond so endorsed shall be filed in the office of the comptroller; and, in case of the forfeiture of any such bond the comptroller is hereby directed to cause the same to be put in suit.

**[Not re-enacted for filing of oath. See Public Officers' Law, § 10.]**

§ 5. The commissioners of the several counties to be appointed in pursuance of this act shall respectively be known and distinguished by the name and style of "the commissioners for loaning certain moneys of the United States of the county," of which they are respectively commissioners, and they shall be named and described by such name and style in all legal and other proceedings which may be had under the provisions of this act.

**[Re-enacted in § 83 of the revision.]**

§ 6. Actions may be brought by the said commissioners upon any contract lawfully made with them or their predecessors in their official character, and to recover damages for any injuries done to their rights or to the property in their charge or which was in the charge of their predecessors as such commissioners; and all such actions shall be brought by the said commissioners in the name of their respective offices.

**[Not re-enacted. The Code of Civil Procedure provides for actions begun by loan commissioners.]**

§ 7. No suit commenced by the said commissioners shall be abated or discontinued by the death of such commissioners, their removal from the county or their removal from or resignation

(L. 1837, ch. 150; R. S., 8th ed., 573.)

of their offices, or the expiration of their terms of office; but such suit shall be continued and prosecuted by their successors in office in like manner as if the commissioners who commenced such suit had continued in their said offices.

**[Not re-enacted; see Code of Civil Procedure, § 755.]**

§ 8. Wherever in any suits by or against the said commissioners, any debt, damages or costs, shall be recovered against them, the comptroller, in case he shall be satisfied that such recovery was not had against them in consequence of any default or misconduct on their part, may direct them to pay the amount so recovered out of the interest of the moneys to be loaned in pursuance of this act, and shall be authorized to allow to the said commissioners the amount so paid in their official accounts.

**[Re-enacted in § 89 of the revision.]**

§ 9. Whenever the said commissioners shall have respectively taken the oath of office required in this act, and shall have filed with the comptroller such bond as by this act is directed, the comptroller and treasurer shall authorize the said commissioners in such manner as they, the said comptroller and treasurer, shall direct to draw for their respective proportions of the moneys mentioned in the first section of this act; and the said commissioners shall loan out the same to the inhabitants of their respective counties on mortgage on improved lands in the same county owned by the borrower, and apportion the same among the cities, towns and wards of their respective counties according to the population thereof, as ascertained by the last census, and shall loan out the said moneys to the said inhabitants of the several cities, towns and wards in their respective counties on mortgage on improved lands in the same county owned by the borrower; but if the whole sum apportioned to any city, town or ward should not be applied for by the inhabitants of said city, town or ward, and taken up as provided for by this act, then the said sum, or the excess not applied for, shall be apportioned by the said commissioners among the other cities, towns and wards applying for the same, according to their respective population: They, the said commissioners, first giving public notice in writing by posting up such notice on the outward door of the court-house, in the county, or of the building where the court of common pleas was then last held in the same county, and at one public place in each town and ward in said county, and by causing the same to be published at least in one public newspaper in their respective counties, wherever there are any printed in the county, that at a certain place to be designated

(L. 1837, ch. 150; R. S., 8th ed., 574.)

in such notice, and on a certain day at least fifteen days after the said notice shall be so posted and published, they will be ready to receive applications from borrowers, according to the directions of this act; and as on that day borrowers make their applications for loans, their names and the sums they apply for shall be entered in the minute book of proceedings hereinafter mentioned; and every borrower shall be accommodated according to the priority of his application, subject to the proviso hereinafter mentioned, if there should be no reasonable objections to the title and value of the lands offered to be mortgaged by him. But if the amount of the applications of the borrowers in each city, town and ward made according to the directions of this act upon the first day shall exceed the sum apportioned to such city, town and ward, then and in such case the sums so applied for by such borrowers shall be proportionately abated; and all applications shall be received from borrowers on the first day which shall be designated in pursuance of this section for that purpose, for all the moneys mentioned in the first section of this act to be apportioned among the several counties of this state as therein prescribed; and in case the whole amount to be loaned to the borrower shall not be paid to him at the time of the execution of his mortgage, the said commissioners shall give to such borrower a certificate specifying the amount remaining unpaid and that the same shall be paid to such borrower on demand after the same shall have been received by such commissioners; and any interest which shall accrue on the sum so certified from the time of the execution of such mortgage to the time the same shall be received by the said commissioners, shall be deducted from the interest which shall accrue on the amount loaned to such borrower; and the mortgages taken in pursuance of this act shall be deemed good and valid incumbrances for the whole amount specified in said mortgages from the day of the date thereof, in like manner as if the whole amount had been paid to the borrower on that day.

§ 10. The said commissioners respectively, before they accept a mortgage on lands for any of said moneys, shall be satisfied that the borrower has a title in fee to such lands, and that the same are free and clear of all incumbrances and are worth double the amount of the sum loaned, exclusive of buildings and of the value of the rent in perpetuity if any charged thereon; and wherever the said commissioners shall deem it necessary they shall, in addition to the examinations for that purpose hereinafter directed to be made, require the borrower to satisfy them by proper evidence that he possesses an estate in fee in such lands free and clear of all incumbrances.

(L. 1837, ch. 150; R. S., 8th ed., 574.)

§ 11. The said commissioners shall loan the said moneys in sums not exceeding the sum of two thousand dollars, except in the city of New York, and in that city in sums not exceeding the sum of five thousand dollars; and in the several counties, except in the city of New York, in sums not under two hundred dollars, and in that city not under five hundred dollars, unless the proportion be less to any one person by means of more than the amount apportioned to any county having been applied for.

[Sections 9-11 are repealed and not re-enacted. The commissioners are deprived by the revision of the power to loan money, therefore these sections are no longer necessary.]

§ 12. The interest of the moneys to be loaned as aforesaid, shall be payable annually on the first Tuesday of October in each and every year, and the said moneys shall be loaned on a credit of not exceeding five years, subject, however, to the condition of being called in, the one half on a previous notice of one year, and the remainder on a previous notice of two years; and no borrower shall be permitted to pay any part of the principal moneys loaned on any day other than the first Tuesday of October in any year, unless so many shall offer payment on that day that the said commissioners cannot during the day receive the whole sums offered to be paid, in which case they shall continue to receive until all who on that day offered have paid the moneys so offered. But the loan commissioners, in their discretion, may at any time receive the principal sum loaned on any mortgage, together with the interest which would become due thereon upon the first Tuesday of October then next, and on such payment discharge the securities taken therefor; and whenever any moneys loaned under the act hereby amended, shall be paid to the commissioners of loans, the same shall be paid into the treasury and be applied to the reimbursement of the loan made to the treasury by the commissioners of the canal fund, until the whole of the said loan shall be reimbursed; and the moneys received from time to time by the commissioners of the canal fund, in payment of the said loan to the treasury, shall be re-invested and managed by the said commissioners in trust for the holders of the outstanding stock issued for the construction of the Erie and Champlain canals, according to the provisions of the act entitled "An act respecting navigable communications between the great western and northern lakes and the Atlantic ocean," passed April 15, 1817. (Thus amended by L. 1838, chap. 193.)

[That part of this section relating to the payment of interest is re-enacted in § 88 of the revision. The remainder is obsolete and therefore omitted.]

(L. 1837, ch. 150; R. S., 8th ed., 575.)

§ 13. In case any of the said commissioners shall remove out of the county, die, or neglect or refuse to perform the duties required of him in this act, or shall neglect or refuse to give additional security when required as hereinafter provided, or shall be guilty of any misconduct in his said office, upon report or complaint made thereof to the governor, the governor shall, in case of such neglect of said commissioner, remove him from his said office; and also, as well as in case of such death or removal, appoint some other reputable inhabitant of said county as such commissioner, who shall hold his office and discharge the duties thereof until the next meeting of the senate; and in case the said commissioner shall be guilty of any misconduct in his said office, then the governor shall, upon complaint as aforesaid, summon the person so charged with improper conduct to appear before him, and shall hear and determine the subject-matters of said complaint; and on being satisfied of the truth thereof, the governor is hereby required to remove such commissioner, and to appoint some other reputable inhabitant of said county in his stead, who shall hold his office and discharge the duties thereof until the next meeting of the senate.

§ 14. Any of the said commissioners who shall have faithfully discharged the duties of the said office may resign the same, and the governor, with the consent of the senate, shall appoint a fit and proper person to supply any vacancy occasioned by such resignation, or in any other manner, whenever the same shall happen; and every person who shall be appointed in pursuance of this or the next preceding section, shall do the like acts as other commissioners are by this act required to do, and shall be subject to the like penalties, restrictions and regulations, and receive the same compensation and advantages as the other commissioners are liable, subject or entitled to.

**[Sections 13, 14 are not re-enacted. The governor is empowered to appoint commissioners to fill vacancies in § 83 of the revision, ss 23, 24 of the Public Officers Law, to provide for the removal of public officers.]**

§ 15. The said commissioners, in case of a sale of any lands mortgaged to them by virtue of this act, may retain in their hands out of the moneys for which the said lands are sold, besides the principal and interest, as hereinafter directed, the amount of the disbursements paid out by them on account of the advertisements and sale, and on account of the fees paid for searches and taking affidavits, and their compensation for serving said advertisement, and the sum of five dollars for their services in preparing the notices of such sale and superintending the same: But where

(L. 1837, ch. 150; R. S., 8th ed., 576.)

the moneys due on the mortgages shall be paid before a sale of the mortgaged premises, the said commissioners shall not be authorized to charge or receive more than the amount of the disbursements and two dollars for their services. (Thus amended by L. 1863, chap. 73.)

【Partly re-enacted in § 89 of the revision. The comptroller shall allow to the commissioners, the costs and disbursements upon foreclosure; formerly the amount of the costs were prescribed.】

§ 16. The said commissioners, on the first Tuesday of December next, and on the first Tuesday of December in every year thereafter, and also whenever the comptroller shall require it to be done, shall render a full and detailed account to the comptroller, in such form as he shall prescribe, of all the moneys by them received, and of the sales of all lands by them made by virtue of this act, and of all deficiencies which may happen by such sales or otherwise; and whenever it shall appear by the account of any of the commissioners that lands have been purchased by them, or any of them, for the people of this state, the comptroller shall make a report thereof to the legislature at their next session.

【Partly re-enacted in § 90 of the revision. In the revision the contents of the report are specified in detail.】

§ 17. If any of the moneys authorized to be loaned by this act shall remain in the hands of the commissioners for want of borrowers, for the space of four weeks after the first day appointed for loaning the same, the said commissioners, in every such case, may loan out such moneys on like security as aforesaid, by mortgage on improved lands in the same county, to any person who will borrow the same, in any sum, in the city and county of New York, not exceeding ten thousand dollars, and in the other counties of this state in any sum not exceeding five thousand dollars.

【Not re-enacted, as the commissioners by the revision, no longer have the power to loan money.】

§ 18. The said commissioners shall, on or before the first Tuesday of November in every year, pay to the treasurer of this state the interest of the money committed to their charge, respectively, by virtue of this act, at the rate of five per centum per annum; subject, however, to the following deduction: The said commissioners may retain, as a compensation for their services, out of said interest in each and every year after the following rates: Upon twenty-five thousand dollars or a less sum, so committed to their charge, three-quarters of one per centum; upon the



(L. 1837, ch. 150; R. S., 8th ed., 577.)

§ 21. The said commissioners respectively are hereby authorized and required, under the directions of the comptroller, to procure such books with blank forms, and such printed mortgages with blanks, as will be necessary under the provisions of this act; the expense of which shall be a charge on the interest to be received on the moneys authorized to be loaned by this act.

§ 22. The said commissioners shall exact interest on the moneys loaned by virtue of this act, from the day of the date of the respective mortgages, except as is provided in the ninth section of this act.

§ 23. In all cases where a sale of lands shall be made in pursuance of the provisions of this act, and a vacancy shall exist in the office of one of the commissioners in the county when such sale shall be had, it shall be lawful for the remaining commissioners to execute a deed in pursuance of this act, for the lands so sold, and to fill up and deliver, attested under his hand and seal as a true copy, one of the loose sheets of mortgages, in pursuance of section nineteen of this act, and also to deliver said affidavits, all of which shall have the same effect as if executed and done by two commissioners for such county. (Thus amended by L. 1863, chap. 73.)

§ 24. The commissioners shall respectively attend their office every year, to receive the moneys directed by this act to be paid to them, upon the first Tuesday of October, and thereafter on the Tuesday and Wednesday of each week for the space of three weeks.

§ 25. The said commissioners, respectively, before they accept any mortgages on lands for any of the said moneys, shall first view the lands so offered to be mortgaged, or make due inquiry respecting the value thereof, and shall examine the titles thereto by perusing the deeds, patents, surveys and other writings and conveyances by which the same are held; and the said commissioners respectively shall, and they are hereby empowered to administer to all persons applying to borrow any of the said moneys, the following oath, viz.: "I, . . . . . do swear, that I am bona fide seized in fee simple of the lands, tenements and hereditaments by me now offered to be mortgaged, in my own right and to my own use; and that the same have not been conveyed to me in trust, to borrow any sum or sums of money upon the same, for the use of any other person or persons whatsoever; and that the said premises are free and clear from all gifts, grants, sales, mortgages, judgments, liens, and from all other incumbrances whatsoever, to my knowledge and belief;" and where the lands offered to be mortgaged are subject to a rent in perpetuity, the borrower, in the said oath, may make an exception of such rents. And in order

(L. 1837, ch. 150; R. S., 8th ed., 578.)

the better to satisfy the said commissioners as to the title and value of what is offered in mortgage by borrowers, they or either of them are hereby authorized and empowered to examine the borrower and witnesses concerning the same, upon oath, and to administer such oath; a brief minute of which examination, and the names of the persons so examined shall be entered in the said minute-book of proceedings.

§ 26. No money shall be loaned under this act unless the title deeds of the real estate offered to be mortgaged as a security for such loan are recorded in those counties where such recording is necessary to render valid the titles to land, and in all other counties, unless such title deeds, if not recorded, shall be deposited with the said commissioners, or one of them, until they shall be so recorded.

§ 27. The said commissioners shall loan out the said moneys according to the direction of this act, at an interest of seven per cent per annum; and the mortgages which shall be taken by the said commissioners, shall be executed in the presence of two or more witnesses, who shall subscribe the same as such witnesses; and the substance thereof shall be minuted in a book by the said commissioners, to be by them kept for that purpose in their respective counties; for the filling up of which mortgage, and the making such minute, the borrower shall pay to the said commissioners the sum of one dollar, and no more; and which mortgage and minute shall be, and each of them are hereby declared to be matter of record; and an attested copy of the said mortgage, if in being, or of the said minute in case the said mortgage is lost, under the hands and seals of the said commissioners, shall be good evidence of the said mortgage in any court within this state.

§ 28. The said commissioners, at the time of the lending of any of the said moneys, shall take the security for the same by this act required to be taken; and for every sum paid to them they shall give to the person paying the same a receipt, and shall enter one minute of such payment on the back of the mortgage, and another minute thereof in the book of accounts by them to be kept, and that without any fee or reward; and when the whole of the principal and interest due on any mortgage shall be paid to the said commissioners, they shall, if required, give the party making the payment a release of the mortgage, and shall tear from the same the name and seal of the borrower, and shall make an entry on the margin of the mortgage, and in the margin of the minute made thereof, of the time such release was given, for which release the releasee shall pay the sum of fifty cents, and no more; and **whenever any of the said principal moneys shall be paid in as**

(L. 1837, ch. 150; R. S., 8th ed., 578.)

aforesaid, the said commissioners shall, at the end of the annual meeting at which such payment shall be made, compute the whole amount of the principal moneys so paid, and shall then immediately loan out the same in like manner, and upon the like security, as it is heretofore provided.

【Sections 21-28, are repealed and not re-enacted. The commissioners no longer possessing power to loan money on real estate, these sections become unnecessary.】

§ 29. Whenever a commissioner shall have been appointed in the place of a former commissioner, and shall have taken the oath of office and filed the bond required by this act, such former commissioner, his executors or administrators, shall, upon demand, deliver to the commissioner so appointed in his place, all the moneys, books and papers that were in such former commissioner's custody belonging to his office, upon oath, before any judge of the court of common pleas; and in case any such commissioner, or his executors or administrators, shall delay or refuse to make such delivery on oath when demanded as aforesaid, the bond of such former commissioner shall be forfeited.

【This section is not re-enacted, but see § 84 of the revision.】

§ 30. If any borrower shall neglect to pay yearly, and every year, on the first Tuesday of October, or within twenty-three days thereafter, on one of the days on which the commissioners aforesaid are by this act directed to attend their respective offices, the yearly interest due on his mortgage, and also the principal moneys loaned to him when due, then, and in either of these cases, the commissioners of the county where the lands mortgaged by the borrower are situated, shall be seized of an absolute and indefeasible estate in fee in said lands, to them, their successors and assigns, to the uses in this act mentioned, and the mortgagor, his or her heirs or assigns, shall be utterly foreclosed and barred of all equity of redemption of the mortgaged premises, any law, usage, custom or practice in courts of equity to the contrary notwithstanding. But the mortgagor, his or her heirs or assigns, shall be entitled to retain possession of the mortgaged premises until the first Tuesday of February thereafter, and to redeem the same as hereinafter provided.

【Re-enacted in § 30 of the revision, without material change.】

§ 31. The said commissioners shall, within eight days after the last Wednesday of their attendance as aforesaid, yearly and every year, cause an advertisement to be fixed up at not less than three of the public places of the county where the premises are situated,

(L. 1837, ch. 150; R. S., 8th ed., 579.)

containing a description of the lands mentioned in the several mortgages foreclosed as aforesaid, and giving notice in such advertisement that on the first Tuesday of February then next, such lands will be sold at the court-house of the respective counties where the said lands are situated, at public vendue, to the highest bidder; and the said commissioners shall also cause a copy of such advertisement to be published in at least one of the public newspapers printed in the county, if any such there be, and if there be no newspaper published in such county, then in the nearest paper to said county, successively once in each week, until the day of sale. They shall also serve such advertisement at least fourteen days prior to the time therein specified for the sale, upon the mortgagor, or his personal representatives, or upon his executors or administrators, if any shall have been, at the day of the date of such advertisement, duly appointed by the proceedings of any court, and upon such persons as shall by the records of the office of the county clerk of the county in which said premises or any part thereof are situated, appear to be grantees, lessees or mortgagees of the said premises or of any part thereof, and whose conveyance, mortgage, or other evidence of right or title shall be upon said records at the date of the first publication of the said advertisement, and upon all persons having a lien or incumbrance upon the said premises or upon any part thereof, by judgment or otherwise, subsequent to such mortgage, and which lien or incumbrance shall, on the day of the date of said advertisement, appear upon the records of the office of the county clerk of the county in which said premises or any part thereof are situated. Such service shall be made by delivering a copy of such advertisement personally to the person to be served, or by leaving a copy of said advertisement at the dwelling-house of the person to be served, in charge of some person then residing therein, who shall have attained the age of twenty-one years, or by enclosing and sealing the copy of such advertisement in an envelope and plainly addressing the said envelope, on the outside thereof, to the person to be served, by his name, as the same appears on said records, at the post-office nearest to his last known place of residence, and by depositing the same so enclosed and sealed in the said envelope, in the post-office nearest the residence of the commissioner or commissioners making such service, and by pre-paying the postage thereon; and when the service is made personally or by leaving at the dwelling-house as aforesaid, the same shall be made at least fourteen days before the day of sale in such advertisement mentioned; and when the service is by depositing in the post-office as aforesaid; the same

(L. 1837, ch. 150; R. S., 8th ed., 580.)

shall be made at least twenty-eight days before the day of sale mentioned in the said advertisement. (Thus amended by L. 1863, chap. 73.)

§ 32. The said commissioners of the respective counties aforesaid shall, on the first Tuesday of February, yearly, expose the lands described in the mortgages foreclosed as aforesaid, to sale at public vendue, and upon such sale they shall convey the said lands to the highest bidder or bidders; and they shall also deliver to such bidder or bidders, affidavits of the publication, fixing up and service of the said advertisement; and the purchaser or purchasers thereof shall, if the said advertisement shall have been published and fixed and served, as herein required, hold and enjoy such estate in the said lands as was conveyed to the said commissioners by the said mortgages, clearly and absolutely discharged of and from all benefit and equity of redemption, and all other liens or incumbrances made or suffered after the execution of such mortgage by the mortgagor, his heirs or assigns, and such purchaser or purchasers shall pay the commissioners for drawing and executing such conveyance, the sum of one dollar, and said affidavit of the publication of said advertisement shall be made by the publisher of the newspaper in which the same was inserted, or by his principal clerk, or by his foreman; and said affidavit of such service of such advertisement and of the fixing up of the same, shall be made by any person who made the service or who fixed up the said advertisement. (Thus amended by L. 1863, chap. 73.)

【Sections 31, 32 are not re-enacted. The adoption of the ordinary course of procedure in foreclosure of loan office mortgages, renders their provisions unnecessary.】

§ 33. When any land mortgaged to the said commissioners according to this act shall be exposed for sale as aforesaid, and no person shall bid at such sale for the said lands, a sum equal to the amount due on the mortgage for principal and interest, and the expenses of the advertisements and the sale; or if any person to whom any such lands at any such sale be struck off, shall not pay for the same, then and in every such case the said commissioners shall enter into and take possession of the said lands and premises, and let the same upon the best terms they can obtain for the benefit of the state, until the third Tuesday in September then next, and shall, on the same third Tuesday in September, sell the said lands and premises at public vendue to the highest bidder, giving at least six weeks' previous notice of such sale, in the manner directed by the two next preceding sections

(L. 1837, ch. 150; R. S., 8th ed., 581.)

of this act, and if, upon such sale, no person shall bid or offer to give for the said lands and premises, a sum equal to the amount due on the mortgage for principal and interest, including all costs and expenses; or if any person to whom any such lands and premises shall at any such sale be struck off, shall not pay for the same, then and in every such case, the said commissioners shall bid therefor in behalf of the people of this state, a sum not exceeding the amount at which the said lands shall be appraised by the appraisers hereinafter mentioned, in case such bidding shall be necessary to prevent the sale of such premises for a less sum; but if the mortgagor, or his or her heirs or assigns shall, at or before the sale of the mortgaged premises, pay to the said commissioners all such sums of money as shall be due and payable on such mortgage on the first Tuesday of October then next, for principal and interest, and costs and charges of foreclosure, as prescribed by this act, together with the charges of advertising the same, then the title in fee to the said mortgaged premises shall revert to and reinvest in the said mortgagor, his or her heirs or assigns, and the said commissioners shall accept the said sums of money, and the costs and charges aforesaid, and permit the said owner, or his or her heirs or assigns, to take possession of the said mortgaged premises, and to hold the same until default shall be made in payment of any further sum on the said mortgage. The commissioners appointed by virtue of this act, and their successors, in making any sale of any mortgaged premises by virtue of this act, shall not directly or indirectly be interested in the purchase of the mortgaged premises so sold, or any part thereof. The said commissioners may, at any time before the sale of the mortgaged premises, bring and maintain action to restrain the commission of waste upon the mortgaged premises by the mortgagor, his heirs, devisees, assigns, grantors, or by any other person, and may also, at any time, bring an action to correct any mistake or omission in the description of the mortgaged premises, and may also, after default in said mortgage, maintain an action of trespass against any person who shall, at any time thereafter, and before actual sale of the mortgaged premises, cut or remove therefrom or injure any fence, building or other fixture. All purchases made contrary to the provisions of this section shall be void. (Thus amended by L. 1878, chap. 233.)

**[Partly re-enacted in § 89 of the revision.]**

§ 34. Whenever any lands shall be advertised for sale by the said commissioners by virtue of this act, it shall be lawful for them at any time before the premises are actually struck off, to postpone

(L. 1837, ch. 150; R. S., 8th ed., 581.)

the sale at their discretion, for the purposes of inquiring into the value of the premises, and to employ such person or persons as they shall select to appraise the same.

§ 35. The persons employed by the said commissioners to make any such appraisement shall receive a reasonable compensation for the same, to be settled and allowed by the comptroller, and to be paid out of the interest of the moneys to be loaned in pursuance of this act.

§ 36. If the said lands are appraised at a sum equal to or exceeding the amount due on the mortgage given on said lands to the said commissioners, including all costs and expenses, the said commissioners on the sale of said premises, shall bid therefor in behalf of the people of this state to the amount of the moneys due and costs, in case such bidding shall be rendered necessary to prevent the sale of such premises for a less sum.

§ 37. If the said premises are appraised at a less sum than the amount due as aforesaid, the said commissioners shall in like manner bid to the amount of such appraisement and no more; and all purchases of mortgaged premises made by said commissioners at any mortgage or other sale had under their direction shall be in the name of the people of this state.

§ 38. Whenever any mortgaged premises shall be struck off to the said commissioners for any amount less than the amount of mortgage money, interest and costs, no greater sum shall be credited to the mortgagor or any other person, on account of such sale, than the amount bid for the premises sold, deducting therefrom all costs and charges of sale.

¶ Sections 34-38 are not re-enacted. In the revision the commissioners shall bid in the premises in case the property sold in foreclosure does not bring an amount sufficient to pay the principal and interest of such mortgage and thereafter sue for and collect from the mortgagor the amount of the mortgage debt. There is therefor no need of an appraisement as provided for in these sections. ]

§ 39. The money for which the mortgaged premises are sold shall, upon the sale thereof, be paid to the said commissioners, out of which they shall retain in their hands the amount of the principal then due on the said mortgage, together with the interest which would have been due thereon on the first Tuesday of October next thereafter, if such sale had not been made, and also the expense of the advertisements of sale and the fees paid for searches and taking affidavits, and their compensation for serving advertisements; and the remainder, if any, the commissioners shall pay to the mortgagor, his or her heirs or assigns; and if the

(L. 1837, ch. 150; R. S., 8th ed., 582.)

purchaser of the said mortgaged premises offers to borrow the principal sum or sums that is or are paid by him or her for said premises, and if the said commissioners are satisfied that the security offered to be given by such purchasers for such loan conforms in all respects to the requirements of this act, such purchaser shall be preferred to any other borrower; and the said commissioners shall not be obliged, for the purposes of this section, to take notice of any assignee of the mortgagor, unless such assignee serves a notice of his right in writing upon the said commissioners at or before the time of sale, which notice the commissioners shall enter upon the mortgage and in the minute thereof, whenever required by such assignee, such assignee paying twenty-five cents for such entry, and the assignees of the mortgagor shall be preferred according to the priority of their entries of such notice; and on such sale the said commissioners shall retain in their hands no more than the amount of the principal then due on the mortgage, together with the interest which may have accrued thereon, and the fees paid for searches and taking affidavits, and their compensation for serving said advertisements; and if any excess over and above the principal, interest and costs aforesaid shall have been paid to the said commissioners under the provisions of this section, the comptroller is hereby authorized and required to cause such excess to be refunded to the mortgagor, his or her heirs or assigns. (Thus amended by L. 1863, chap. 73.)

[Not re-enacted. The adoption of the ordinary procedure of mortgage foreclosure and the depriving of the commissioners of the power to loan moneys renders this section unnecessary.]

§ 40. If after any lands are mortgaged according to the directions of this act, there should, in the judgment of the said commissioners, be good grounds (which they shall insert in the minutes of their proceedings) for believing that the mortgagor had no good right or title to the premises mortgaged, or had otherwise broken the covenants contained in his mortgage, so that the moneys, or any part thereof, advanced in loan upon the credit of the mortgaged premises were in jeopardy, it shall and may be lawful for the said commissioners, and they are hereby required to commence an action or actions of debt or covenant upon the said mortgage against the said mortgagor, his or her heirs, executors or administrators, and the same to prosecute to judgment by all lawful ways and means whatsoever, in any court of record, for the recovery of the whole moneys lent upon the mortgage, and the interest then due, and which also should become due for three months next following the judgment, with costs; and the court in which such actions are brought, and the judges

(L. 1837, ch. 150; R. S., 8th ed., 582.)

or justices thereof in vacation, are hereby authorized and directed to give such short day for the rules of pleading therein, that judgment or trial and final determination may be had the first term of the court after the term of such court at which the defendant first appeared to the same action.

**[Section 40 is in part re-enacted in § 88 of the revision.]**

§ 41. The offices of the said commissioners shall be kept at the court-houses of their respective counties; and where there are two court-houses in the county, at such court-house as the said commissioners shall select; and where there is no court-house in the county, then at the place where the court of common pleas shall be held in the same county, or at some convenient place near the same; and the said commissioners shall, as soon as they shall have taken the oath of office and filed the bond required in this act, give such public notice of the first day of their attending their offices for the purpose of receiving applications from borrowers, as is hereinbefore prescribed and required; and they shall duly attend the same on that first day, and on every Tuesday and Wednesday in every week, for the space of four weeks thereafter, if such attendance be necessary.

**[§ 41 is partly re-enacted in § 83 of the revision.]**

**[Section 42 repealed by L. 1886, ch. 593.]**

§ 43. The said commissioners shall permit any person, at reasonable times, to search and examine their books of mortgages, and any other book required to be kept by this act, in their hands and custody, upon paying twelve and an half cents for the search; and the execution of the respective mortgages, and their entry or being placed in the books of mortgages of the said commissioners shall have the like lien, priority, operation and effect as if such mortgages had been duly recorded in the book of mortgages in the office of the clerk of the county in which the mortgaged premises are situated.

**[Not re-enacted. See § 84 of the revision.]**

§ 44. All mortgages shall be taken by the commissioners by filling up one of the blanks in the book of mortgages to be provided by such commissioners. And no mortgage shall be defaced or torn out of such book; but when the mortgagors pay the whole principal and interest due on the mortgage, the seal and name of the mortgagor shall be torn off; and the commissioners shall proceed in taking the mortgages at the commencement of the book of mortgages, numbering the mortgages as they are taken, and they shall insert the mortgagor's name and the number of his

(L. 1837, ch. 150; R. S., 8th ed., 583.)

mortgage in an alphabet to be prepared and placed in the book under the letter answering to the mortgagor's surname.

【Not re-enacted. The mortgages are to be cancelled the same as other mortgages.】

§ 45. The said commissioners shall, in a proper book to be provided for that purpose, minute the substance of each mortgage, that is, the number thereof, the date, the mortgagor's name, the sum lent, and the boundaries of the lands mortgaged; and whenever one of the commissioners has the custody of the book of mortgages, the other shall have the custody of the said minute book; and the mortgagor, for his satisfaction, may examine or see the minute examined with the original mortgage, and shall, together with the subscribing witnesses, sign such minute.

【Not re-enacted in substance, but the provisions of the section are fully provided for in § 84 of the revision.】

§ 46. The said commissioners shall insert the minutes of their proceedings in such minute book, as follows: First, the day they meet, place, hour, and commissioners present: Second, if any one is absent, they shall at their next meeting minute the cause of his absence: Third, they shall enter the hour that every one applies for the loan of money, and the sum he applies for: Fourth, they shall enter the reasons why a prior applicant did not receive the money according to his application, and the substance of all examinations as to titles and value: Fifth, they shall enter the monies received under this act: Sixth, on the last day of their first days of meeting for receiving moneys yearly, they shall enter whose mortgages are foreclosed, and the number and sums of them: Seventh, they shall enter the orders for and copies of the advertisements for sale and places at which they are set up, and the persons' names who set them up: Eighth, they shall enter the names of the purchasers of lands and the prices for which such lands sold, and the payment of the overplus to whom it belongs, with the time of and witnesses to such payment: Ninth, in case any principal moneys or a part thereof are paid in before the times of payment specified in the mortgages, the whole amount of such principal sums so paid in, shall be entered in the said book: Tenth, they shall enter also the cause of all suits, and the information they have received in relation thereto, and from whom, at length, or if too long, they shall minute the substance.

【Not re-enacted; see § 84 of the revision as to records, etc.】

§ 47. Whenever the supervisors of any county in this state shall apprehend that any of said commissioners, or their, or either of

(L. 1837, ch. 150; R. S., 8th ed., 583.)

their sureties, are likely to fail, it shall be their duty to require such commissioner to give such additional security as they may deem reasonable and satisfactory.

**[Re-enacted in § 85 of the revision, with the change that the comptroller may require the additional security rather than the board of supervisors.]**

§ 48. Whenever the said commissioners shall consider it necessary to require additional security for the purpose of securing the payment of moneys loaned by them or their predecessors in office, either on account of the reduction in value of the premises mortgaged, or an account of any substantial defect in the description of such premises in the original mortgage, they shall have power and it shall be their duty to demand such additional security as they shall think requisite, from the mortgagor, his representatives or assigns, and take the same in like manner as original mortgages are directed to be taken by them; and such additional securities shall be proceeded upon in case of default in payment in the same manner as original mortgages.

§ 49. In case any mortgagor, his heirs or devisees, who shall be in the actual possession of the mortgaged premises, shall neglect or refuse to give such additional security as may be required by such commissioners for the purpose of supplying any substantial defect in the description of the mortgaged premises, the said commissioners may file a bill in the court of chancery to compel such mortgagor, his heirs or devisees, to supply such defects in such manner as the chancellor shall deem equitable; and in every such case the chancellor shall have power to decree costs against the defendant, if in his opinion costs ought to be decreed.

**[Sections 48, 49 are not re-enacted. With the additional hold upon the mortgagor as provided in § 89 of the revision, these sections become unnecessary.]**

§ 50. It shall be the duty of the said commissioners to exhibit to the board of supervisors of their respective counties, at each annual meeting of the board, all the mortgages and other securities taken by them or their predecessors in office, for moneys loaned under and in pursuance of this act, together with their books of accounts, minutes and vouchers, in order that the board of supervisors may ascertain whether the moneys committed to the charge of such commissioners have been loaned and continued to be kept as loans according to law.

§ 51. It shall be the duty of the board of supervisors, at each annual meeting of the board to carefully examine all such mort-

(L. 1837, ch. 150; R. S., 8th ed., 584.)

gages and securities, accounts and minutes so to be annually exhibited to them, in reference to the state in which they shall find the said moneys, and to their safety and the sufficiency of the securities taken for the payment thereof, and to give to the said commissioners such directions as to taking additional security from the borrowers as the said board of supervisors shall deem proper and necessary. And the said board shall forthwith certify, under their hands, the state in which they shall find the said moneys, and the result of such examination, and what directions they have given to the said commissioners as to their taking such additional security, and to transmit such certificate by mail to the comptroller.

§ 52. If it shall appear to the comptroller, from any such certificate, that the whole of the moneys under the charge of the said commissioners have not been loaned as required by law, it shall be his duty to order suits to be commenced on the bonds of the said commissioners so found in default. And it shall also be his duty to report such commissioners, or any or either of them, being in default, to the governor, in order that they may be removed and others appointed in their stead.

§ 53. Whenever any county in which loans of moneys may have been made pursuant to this act, shall hereafter be divided, and default shall be made in the payment of principal or interest of any such loan, the said commissioners under whose care any mortgage given for any such loan may be, shall have power to proceed to a sale of the mortgaged premises pursuant to the provisions of this act, whether the mortgaged premises shall be situated within the county of such commissioners or not; and in such cases all notices required to be affixed or published, shall be affixed and published in the county in which the mortgaged lands shall lie, and the sale shall be made in that county.

**[Sections 50-53 are not re-enacted. With no power to loan on the part of the commissioners, these sections are unnecessary.]**

§ 54. Whenever any mortgaged premises shall be bid in by the said commissioners for an amount less than the mortgage money, interests and costs due, it shall be the duty of the comptroller, upon satisfactory proof being made to him that nothing more can be collected upon any covenant in the mortgage, or upon any bond or other security for the mortgage debt, and that the deficiency has not arisen from any negligence or fault of the commissioners, to credit them with the full amount due on the mortgage at the time of sale, upon their delivering to him the original mortgage and all other securities for the mortgage debt.

(L. 1837, ch. 150; R. S., 8th ed., 585.)

【Not re-enacted. Under the proposed change in the revision its re-enactment is unnecessary.】

§ 55. It shall be the duty of the said commissioners to deposit their books of mortgages in the clerk's offices of the respective counties for which they were appointed, there to remain at all times, except when the said commissioners shall be in actual session for the dispatch of their official duties.

【Re-enacted in § 84 of the revision without material change.】

§ 56. The mortgages to be taken by the commissioners by virtue of this act, shall be in the form following, to wit: "This indenture, made the                    day of                    in the year of our Lord                    between                    of                    in the county of                    of the first part, and the commissioners for loaning certain moneys of the United States, of the county                    of the second part, witnesseth: That the said                    for and in consideration of the sum of                    to                    well and truly paid by the commissioners aforesaid, hath granted, bargained, sold, aliened, released, enfeoffed and confirmed and by these presents do grant, bargain, sell, alien, release, enfeoff and confirm, to the commissioners aforesaid, and their successors and assigns forever, all that                    together with all the hereditaments and appurtenances to the same belonging, or in any wise appertaining, and all the estate, right, title, interest, claim and demand whatsoever of the said                    of, in and to the above bargained premises, and every part thereof. To have and to hold the above bargained premises, and every part thereof, with the appurtenances, unto the said commissioners, and their successors and assigns forever, and for the uses and purposes mentioned in an act of the legislature of the state of New York, entitled 'An act authorizing a loan of certain moneys belonging to the United States, deposited with the state of New York for safe keeping:' Provided always, and these presents are upon this condition, that if the said                    heirs, executors, administrators or assigns, shall pay, or cause to be paid, to the said commissioners, the interest of the said sum of                    at the rate of seven per cent per annum, on the first Tuesday of October, yearly and every year, and shall also pay to the said commissioners, the said principal sum of                    with all the interest then due for the same, on the                    day of                    unless the same shall be by them sooner demanded; and shall also pay the said principal moneys if sooner demanded, the one-half part thereof after a previous notice of one year, and the remainder after a previous notice of two years, then the above grant, bargain and sale, and every part thereof, shall be void;

(L. 1837, ch. 150; R. S., 8th ed., 586.)

but if the failure be made in any of the payments above mentioned, then the above bargain and sale is to remain in full force and virtue, and the said                    for                    heirs and assigns, hereby agree to be absolutely barred of and from all equity of redemption of the premises after the expiration of twenty-two days after such failure; and the said                    for                    heirs, executors, administrators and assigns, hereby covenant, grant and agree, to and with the said commissioners, and their successors well and truly to pay to them the interest of the said sum of                    at the rate aforesaid, annually, on the first Tuesday of October in every year, and the said principal sum of                    with all the interest then due thereon, on the                    day of                    unless the same shall be by them sooner demanded, and if the said principal moneys shall be sooner demanded, then to pay the same to the said commissioners, or their successors, the one-half after a previous notice of one year, and the remainder after a previous notice of two years; and that at the time of sealing and delivering of these presents, the said                    lawfully seised of the above bargained premises, of a good, sure, perfect, absolute and indefeasible estate of inheritance, and that the same now are free and clear of and from all former and other gifts, grants, bargains, sales, liens, judgments, recognizances, dowers, rights of dower, and other incumbrances whatsoever; and also, that the above bargained premises, upon the sale thereof, pursuant to the directions of the said act, will yield the principal and interest aforesaid, remaining unpaid at the time of such sale, and until the first Tuesday of October next after such sale, together with the charges of such sale. In witness whereof, the said                    ha hereunto set                    hand and seal, the day and year above written. Sealed and delivered in the presence of us."

§ 57. The deeds to be given by the commissioners for any lands sold by them by virtue of this act, shall be in the form following to wit: "This indenture, made the                    day of                    in the year of our Lord one thousand eight hundred and                    between the commissioners for loaning certain moneys of the United States, of the county of                    of the first part and                    of the second part, witnesseth: That the said commissioners, for and in consideration of the sum of                    to them in hand paid by the said                    whereof they acknowledge the receipt, and discharge the said                    heirs, executors and administrators thereof forever, have pursuant to a law of the state of New York, entitled 'An act authorizing a loan of

(L. 1837, ch. 150; R. S., 8th ed., 586.)

certain moneys belonging to the United States, deposited with the state of New York for safe keeping,' granted, bargained, sold, released, enfeoffed, and confirmed, and by these presents do grant, bargain, sell, release, enfeoff and confirm unto                      heirs, and assigns, all that                      together with all the hereditaments and appurtenances whatsoever to the same belonging, or in any wise appertaining, and all the estate, right, title, interest, claim and demand whatsoever of the said commissioners, and their successors, to the above bargained premises, and every part thereof, to have and to hold the above bargained premises, and every part thereof, with the appurtenances, to the said heirs and assigns, forever. In witness whereof, being the said commissioners, have hereunto set their hands and seals, the day and year above written. Sealed and delivered in the presence of                      ." To which deed the said commissioners shall affix their seals and respectively, subscribe their names in presence of two witnesses.

[Not re-enacted, by the revision they become obsolete.]

§ 58. If any of the said commissioners shall neglect or refuse, for the space of ten days after the receipt of notice, to give such additional security as shall at any time be required by the supervisors of the county for which such commissioner was appointed, or by the comptroller, such supervisors, or the comptroller, as the case may be, shall report the fact, together with their reasons for requiring such additional security, to the governor, in order to his removal.

**[Re-enacted in § 83 of the revision, without change in substance.]**

§ 59. Whenever the repayment of the moneys mentioned in the first section of this act, or any part thereof, shall be demanded by the secretary of the treasury of the United States, the comptroller shall be authorized, in order to meet such calls of the secretary of the treasury without delay, from time to time, as may be necessary, to make special loans on state stock on the most favorable terms which it shall be in his power to obtain, to be repaid out of the collections to be made of the said moneys authorized to be loaned by this act, and the comptroller for that purpose is hereby authorized to issue certificates of stock upon the credit of the state.

[Re-enacted in effect by § 82 of the revision. The pledging of the credit of the state for the repayment of the loan to the United States, implies the right to raise the money by bonds.]

(L. 1837, ch. 150; R. S., 8th ed., 586.)

§ 60. If any loss shall happen in the loans of the moneys mentioned in the first section of this act, such loss shall be a charge on the interest which shall be derived from the loans of said moneys, and paid to the treasurer of this state, as hereinbefore directed.

**[Re-enacted in § 82 of the revision.]**

§ 61. The moneys which may from time to time be paid to the said commissioners, on account of interest, after deducting therefrom the per centage allowed for their services, shall in all cases where it can, in the opinion of the comptroller, conveniently be done, be deposited in some safe bank to the credit of the state treasurer, and a certificate of the said deposit shall without delay be transmitted to the comptroller by the commissioners.

§ 62. It shall be the duty of the comptroller to prepare the necessary forms for carrying this act into effect, and to give such instructions to the commissioners appointed under it, and to the boards of supervisors, as may be necessary to ensure a faithful discharge of the duties of the commissioners, and a full compliance with all the requirements of this act.

**[§§ 61, 62 are re-enacted in § 82 of the revision.]**

§ 63. It shall be the duty of the comptroller and treasurer to keep the accounts of the moneys mentioned in the first section of this act, in the books of their respective offices, separate and distinct from the state funds, and in such manner as to show the amount of principal belonging to the United States, the amount received for interest, and the amount paid from the annual revenue, and the objects to which the same has been applied.

**[Re-enacted in § 82 of the revision.]**

§ 64. No county clerk, or any other person, shall be permitted to charge or receive for services rendered in making searches preparatory to making the loans authorized by this act, in any one case, a sum exceeding three dollars; and no clerk of the supreme court shall be permitted to charge or receive for the like services, in any one case, a sum exceeding two dollars; but nothing in this section contained shall authorize any county clerk, or any other person, to charge or receive for such services the said sum of three dollars, nor any supreme court clerk the said sum of two dollars, unless their fees as established by law authorize them so to do.

**[This section is not re-enacted. The fees of clerks in ordinary cases can also be charged in loan office mortgage proceedings.]**

(L. 1837, ch. 150; R. S., 8th ed., 587.)

§ 65. The interest on the moneys authorized to be loaned by this act, which shall be paid into the treasury, except as is hereinbefore mentioned, shall be applied as the legislature shall hereafter direct.

**[Not re-enacted. It is unnecessary.]**

(Laws 1837, ch. 360; R. S., 8th ed., p. 612.)

Section 1. It shall be lawful for any bank within this state to subscribe to any of the loans which the commissioners of the canal fund are authorized to make on account of the Chenango, Black River and Genesee Valley canals, and from time to time to sell and dispose of any stock issued on account of said loans, any clause, matter or thing in the acts incorporating the same to the contrary notwithstanding.

**[This law is obsolete and is therefore repealed and not re-enacted.]**

(Laws 1838, ch. 58; R. S., 8th ed., p. 587.)

Section 1. No person holding the office of commissioner for loaning the moneys belonging to the United States, deposited with the state of New York for safe keeping, under the act passed April 4, 1837, shall be eligible to the office of supervisor of any town or ward of this state.

§ 2. No supervisor of any town or ward shall be eligible to the office of commissioner under the act aforesaid.

**[This law is re-enacted in § 83 of the revision without change in substance.]**

(Laws 1839, ch. 381; R. S., 8th ed., p. 654.)

Section 1. Whenever any mortgage, given to the people of this state, shall be proceeded upon by the attorney-general for the purpose of foreclosure, if any person having title to a part of the mortgaged premises, by conveyance from the mortgagor, shall have made and delivered to said attorney-general an affidavit, stating that such person has such title, and indicating with certainty the part of the said mortgaged premises, so claimed, it shall be the duty of said attorney-general, at the time appointed for the sale of said premises, first to sell such part of said mortgaged premises as has not been conveyed by said mortgagor; but in case the part so sold shall not produce enough to satisfy the amount unpaid on said mortgage and costs, then said attorney-general shall immediately proceed to sell such part or parts of said premises as may have been conveyed by said mortgagor, as aforesaid, and of which he has received notice as aforesaid; but where more than one part of said

mortgaged premises, has been so conveyed as aforesaid, and of which notice has been given as aforesaid, the said attorney-general shall sell such parts in the inverse order of the dates of such conveyances, commencing with the part last conveyed by said mortgagor.

[This law is re-enacted in § 29 of the revision without change in substance.]

(Laws 1840, ch. 294; R. S., 8th ed., p. 569.)

Section 1. Whenever there shall be moneys in the treasury belonging to the capital of the school fund, the comptroller, by and with the consent of the superintendent of common schools, shall be authorized to invest the same on bond and mortgage, in such sums and in such manner as the comptroller and superintendent shall deem most advantageous to the fund.

§ 2. Such loans shall be made by the commissioners of loans, appointed under the act authorizing the loan of certain moneys belonging to the United States deposit fund, chapter one hundred and fifty, of the laws of eighteen hundred and thirty-seven; and the comptroller shall prescribe the forms of the securities to be taken, the terms and conditions of payment, and all necessary regulations for the security and management of such loans.

§ 3. The commissioners making such loans shall, on being required by the comptroller, execute such additional bond, with sureties, for the due performance of their duties under this act, as may be prescribed by the comptroller; which bond and securities shall be approved in the manner prescribed in the above mentioned act, chapter one hundred and fifty, of the law of eighteen hundred and thirty-seven; and all the provisions of the said act, of the act amending the same, chapter one hundred and ninety-three, of the laws of eighteen hundred and thirty-eight, and of the act, chapter two hundred and thirty-seven, of the laws of eighteen hundred and thirty-eight, shall, as to the loans therein authorized, and the duties, powers, liabilities, and compensation of the commissioners, be held to extend and apply to them, in regard to the loans authorized by this act.

§ 4. The supervisors of the several counties in which such loans may be made, shall possess the same powers, and perform the same duties, in relation to loans under this act, as they are empowered and required to do in relation to loans made from the United States deposit fund.

§ 5. Whenever the principal of any moneys loaned under the acts relating to the United States deposit fund, shall be paid into the treasury, such sum shall first be applied to the reimbursement of the moneys advanced from the treasury on account of a loan

from the general fund to the United States deposit fund, to make up the amount formerly directed to be lent in the several counties; which application of such payments shall continue until the above mentioned advance shall have been fully reimbursed, after which all other such payments shall be applied to the reimbursement of the loan made by the commissioners of the canal fund for the same purpose, in the manner now prescribed by law.

**[This law is repealed and not re-enacted, being obsolete.]**

(Laws 1841, ch. 264; R. S., 8th ed., p. 589.)

Section 1. The payment of the principal moneys loaned in pursuance of the act entitled "An act authorizing a loan of certain moneys belonging to the United States, deposited with the state of New York for safe keeping," passed April 4, 1837, is extended for the term of five years from the time when by the terms of the mortgages executed therefor, they will become due and payable; subject, however, to the condition of being called in, the one-fourth part on a previous notice of one year, and the remainder on a previous notice of two years. Such notice may be given by the comptroller, by publishing the same in the state paper, and in a newspaper, if there shall be any, printed in the county where the lands mortgaged are situated.

§ 2. Any mortgagor or other person in his behalf, may at any time pay the whole or any part not less than one-fourth of the principal and interest due upon any mortgage executed upon any loan made by virtue of the act hereby amended. No principal money not then due shall be paid to the said commissioners, except on a warrant of the county treasurer, of the county wherein they are commissioners; and no payment on such warrant shall be valid, unless the receipt therefor of the said commissioners shall be presented to and countersigned by the said treasurer; and it shall be the duty of the county treasurers respectively to make return of all such warrants and receipts to the comptroller, at such times and in such manner as he may from time to time direct.

§ 3. All the provisions of the act hereby amended which are not inconsistent with this act, are extended and continued in force, and shall apply to all the loans which are hereby extended.

**[This law is repealed and not re-enacted. It is now obsolete.]**

(Laws 1842, ch. 310; R. S., 8th ed., p. 532.)

Section 1. All purchases for the use of any department, office, or work of the government, shall be for cash, and not on credit or time. Each voucher, whether for a purchase or for a service.

or other charge, shall be filled up at the time it is taken; and in all cases where the payment is not made directly by the treasurer, or governor, proof in some apt form shall be furnished on oath, that it was so filled up at the time it was taken, and that the money mentioned therein to have been paid, was in fact paid in cash, or by draft on some specified bank. The auditor, in all cases when moneys are paid from the canal revenues, loans or fund, and the comptroller in all cases when payments are made from any other revenue or fund, shall from time to time prescribe rules, regulations and forms to secure the faithful observance of this section, and may, in all cases if they shall deem it necessary, require proof on oath of the payment of the money as aforesaid. [Thus amended by L. 1855, ch. 535, § 3.]

[This law is re-enacted in § 17 of the revision, without change in substance.]

(Laws 1843, ch. 44; R. S., 8th ed., p. 508.)

Section 1. The comptroller is hereby authorized to make such regulations, and give such directions, from time to time, respecting the transmission to the treasury of moneys belonging to the state, from the several county treasurers, and the commissioners for loaning certain moneys of the United States, as he, in his judgment, shall deem most conducive to the interest of the state.

§ 2. The comptroller may, in his discretion, audit, allow and cause to be paid, such or so much of the expenses necessarily incurred under and in consequence of the aforesaid regulations and directions, as he shall deem equitable and just.

[This law is re-enacted in § 13 of the revision, without change in substance.]

(Laws 1844, ch. 326; R. S., 8th ed., p. 590.)

Section 1. The provisions of section forty-four of the act passed April 4, 1837, are so far modified and amended as to authorize the commissioners of loans to deliver to the comptroller the original mortgages on property forfeited and sold for non-payment of interest, and bid off for the people of this state, in conformity with the provisions of the same act.

[This section is not re-enacted. It is now obsolete.]

§ 2. It shall be the duty of the comptroller, upon the application of any person interested therein, to furnish a certified copy under his seal of office of any original mortgage made to the

(L. 1844, ch. 326; R. S., 8th ed., 580.)

commissioner of loans, and delivered to him in pursuance of the fifty-fourth section of the act hereby amended, or of any act amending the same; and such certified copy shall, if required by the holders thereof, be recorded, together with the certificate of the comptroller, in the office of register or clerk of the county in which the lands described in the said mortgage are situated; and every such certified copy and such record thereof, or a transcript of such record, may be read in evidence in any court of this state, without any further proof thereof, with the like force and effect as the said original mortgage. The comptroller shall be authorized to demand and receive for every such certified copy of a mortgage the sum of fifty cents.

**[Re-enacted in part in § 91 of the revision.]**

§ 3. The commissioners of loans when required by any person interested in any lands which have been heretofore sold, or may hereafter be sold under the foreclosure of any mortgage made in pursuance of the act hereby amended, are hereby authorized and directed to furnish a brief certificate of all or any of the proceedings of the commissioners under the said act, and of the proofs of such proceedings, as the same appear from the minute books, entries and records, kept by the said commissioners, in relation to any such foreclosures and sale, so far as the same may affect such lands; and every such certificate under the hand and seals of the said commissioners, or under the hand and seal of any one of them, duly acknowledged or proved in the manner required by law to entitle a deed of real estate to be recorded in the office of the register or clerk of the county in which the said lands are situated; and every such certificate so acknowledged or proved, and the record thereof, or a transcript of such record, shall be prima facie evidence of the facts therein stated, and may be read in evidence in any court in this state. For executing and delivering such certificate, the commissioners of loans shall be entitled to demand and receive from the person requiring the same, the sum of three dollars.

**[This section is fully provided for in § 133 of the Code of Civil Procedure.]**

§ 4. In all cases wherein mortgages to the commissioners aforesaid have been, or may be hereafter foreclosed, and the lands bid off to the people of this state, and the said mortgages delivered to the comptroller pursuant to section fifty-four of the act hereby amended, it shall continue to be the duty of the said commissioners, according to the provisions of the act aforesaid, and under the direction of the commissioners of the general land office, to exercise supervision and care over the interests of the

people in the said lands, until the same shall have been finally disposed of according to law, and the said commissioners shall be allowed to include the original amount of loans on the said mortgages as a portion of the funds on which commissions may be estimated under the act aforesaid.

**[Section 4 is re-enacted in § 89 of the revision.]**

(Laws 1845, ch. 37; R. S., 8th ed., p 605.)

Section 1. The trustees of the American Seaman's Friend Society may retain, without interest, the loan of ten thousand dollars granted to them by the act entitled "An act for the relief of the American Seamen's Friend Society in the city of New York," passed April 27th, 1840, so long as the said trustees shall faithfully use and apply the same to promote the benevolent objects of the Sailors' Home, erected for the boarding and accommodation of seamen in said city.

§ 2. The trustees may mortgage their real estate in the city of New York, called the Sailors' Home, for a term not less than seven years, to secure the debts due from, or money loaned, or that shall be loaned to them for the purpose aforesaid, to an amount not exceeding fifteen thousand dollars; which mortgage or mortgages shall be liens thereon prior to the lien held by this state to secure the loan mentioned in the first section of this act: Provided, however, that all other liens and incumbrances on said real estate be discharged and cancelled of record.

§ 3. No sale of the said Sailors' Home upon the foreclosure of any mortgage given by virtue of this act, being a lien thereon prior to the lien of the state, shall be had without at least six weeks' previous notice of such sale to the comptroller of this state personally.

**[Re-enacted in § 103 of the revision without change in substance.]**

(Laws 1845, ch. 267; R. S., 8th ed., p 590.)

Section 1. Whenever any part of the principal moneys loaned out, under the act entitled "An act authorizing a loan of certain moneys belonging to the United States, deposited with the state of New York, for safe keeping," passed April 1st, 1837, shall be paid in to the loan commissioners under said act, in the several counties in this state upon any mortgages, it shall be the duty of said commissioners to loan out the same again, in the same manner as when the whole of the principal and interest due upon any mortgage shall be paid in to them.

**[This law is omitted. The power to loan moneys being taken away from the loan commissioners, it becomes obsolete.]**

(Laws 1847, ch. 476; R. S., 8th ed., p. 591.)

Section 1. Whenever any person owning premises subject to a mortgage given to the commissioners for loaning certain moneys of the United States, of any county of this state, shall sell any portion of the said premises, it shall be the duty of the said commissioners on application to them for that purpose, with the assent of the mortgagor, to open an account against any purchaser for the proportionate part of the moneys secured by said mortgage on the portion of the said premises purchased by him, and thereafter to give credit for the payment on such portion, whenever the person making such payment shall so require: No such account shall be opened for a less sum than one hundred dollars: Nor unless the remainder of the mortgaged premises exclusive of all buildings thereon, and of the value of the rent in perpetuity if any, charged thereon, shall appear, to the satisfaction of the said commissioners, to be worth double the amount of the residue of the said mortgage debt and interest, not included in said new account.

§ 2. Whenever any part for which a separate account has so been opened, shall have been fully paid, the said commissioners shall discharge or release the same from such mortgage, and such discharge or release duly acknowledged or proved, shall be sufficient to authorize the county clerk to enter a minute of such payment on the margin of the registry of such mortgage.

§ 3. Nothing in this act shall be construed to affect or impair the obligation or liability of any mortgagor under or by virtue of any covenant contained in such mortgage.

§ 4. The commissioners shall make a special report of their proceedings in each case under this act, to the board of supervisors, at their first annual session after the new account is opened.

§ 5. The comptroller shall prescribe regulations for opening new accounts by the commissioners aforesaid, similar to those adopted in the comptroller's office; and the commissioners shall give to the purchaser or purchasers of any portion of the premises mortgaged to them as such commissioners, a certificate, containing a description of the premises set off, the amount payable thereon, and setting forth that when the payment is made, the original mortgage will be cancelled in respect to the premises described in the certificate.

【§§ 1, 2, 3 of this act are re-enacted in § 86 of the revision.

§§ 4, 5 are found unnecessary in practice and are omitted.】

(Laws 1848, ch. 162; R. S., 8th ed., p. 510.)

§ 2. All the powers and duties of the chief clerk of the canal department, and all the powers and duties of the comptroller in relation to the canals, except his powers and duties as commissioner of the canal fund, are hereby transferred to, and vested in the said auditor; and the said auditor shall also be secretary of the commissioners of the canal fund, and of the canal board.

【Section 3 provides for the auditor's official seal.】

§ 4. All books and papers pertaining to the duties of said auditor, or to the duties of the commissioners of the canal fund, or of the canal board, shall be deposited in the canal department, and be securely and safely kept by said auditor.

§ 5. Copies of books or papers mentioned in the preceding section, and transcripts from the minutes of the proceedings of the commissioners of the canal fund, and of the canal board, certified by the said auditor under his official seal, shall be evidence equally and in like manner as the original.

§ 6. The power now given by law to the commissioners of the canal fund to employ and pay the necessary clerks in the canal department, is hereby vested in the said auditor, and the names of the clerks employed, and the sums paid to each, and the length of time he was employed, shall be annually reported by the auditor to the legislature at the commencement of its session.

§ 7. The statement of the tolls collected upon all the canals of the state during each season of navigation, which, by section twenty-seven, of chapter three hundred and twenty, of the laws of eighteen hundred and thirty-one, the commissioners of the canal fund are required to prepare and lay before the legislature, shall be so prepared and laid before the legislature by the said auditor, and in addition to the tolls collected, it shall contain an exhibit of the trade and tonnage of the canals, substantially as the same is given in the report for the year eighteen hundred and forty-seven.

§ 8. Dues to the state which have heretofore been paid to the commissioner of the canal fund, shall, on and after the first day of October next, be paid into the state treasury.

§ 9. All balances standing to the credit of the commissioners of the canal fund on the first day of October next, in any depository shall as of that date be transferred by the said commissioners to the credit of the treasurer of the state.

§ 10. Whenever directed by the commissioners of the canal fund, the treasurer shall transfer from one depository to another, by a draft to be countersigned and entered by the said auditor, any

(L. 1848, ch. 162; R. S., 8th ed., 511.)

canal fund moneys standing to his credit, and no such moneys shall be transferred by the treasurer from one depository to another, unless by such direction.

§ 11. All moneys now authorized by law to be paid or advanced by the commissioners of the canal fund, and all moneys which shall hereafter be authorized to be paid or advanced from the canal fund, shall, on and after the first day of October next, be paid by the treasurer, on the warrant of the said auditor; but no warrant shall be drawn, unless authorized by law, and every warrant shall refer to the law under which it is drawn.

§ 12. The said auditor shall countersign and enter all checks drawn by the treasurer in payment of his warrants and all receipts for canal monies paid to the treasurer, and no such receipts shall be evidence of payment unless so countersigned.

§ 13. The accounts of receipts and payments on account of the canals, and the canal fund and debt, heretofore kept by the commissioners of the canal fund, shall, on and after the first day of October next, be kept by the said auditor.

§ 14. As soon as possible after the close of each fiscal year, the said auditor shall submit to the commissioners of the canal fund a statement of the receipts and payments on account of the canals and the canal debt, and the balances of the funds on hand, the depositories of the same, and the conditions thereof; which statement shall accompany the annual report of the said commissioners to the legislature.

§ 15. In case of the absence or sickness of the said auditor, he may designate one of his clerks as acting auditor, who may perform any of his duties, except the drawing of warrants on the treasury, and the auditing of accounts.

【This law is repealed and not re-enacted. The office of auditor was abolished by L. 1887, ch. 69, and the provisions of this act are now obsolete.】

(Laws 1848, ch. 215; R. S., 8th ed., p. 566.)

Section 1. If any of the stocks or unavailable funds that have been appropriated towards the completion or improvement of any of the canals shall be unavailable to meet the contracts now made, or that may hereafter be made upon the faith of such appropriations, it shall be lawful for the commissioners of the canal fund to borrow upon the credit of such stocks and unavailable funds, at a rate of interest not exceeding seven per centum per annum, an amount not exceeding the nominal amount thereof, to be repaid from the avails of such stocks or unavailable funds, and pledging the faith of the state to make good any deficiency

remaining thereon; and the comptroller is hereby authorized to issue stock therefor, in the same manner as is provided by law for the issue of stock in other cases. (Thus amended by L. 1849, chap. 230.)

【This law is now obsolete, and is repealed and not re-enacted.】

(Laws 1848, ch. 366; R. S., 8th ed., p. 615.)

§ 3. Whenever there shall be any money in the treasury belonging to the United States deposit fund, it shall be the duty of the comptroller to invest the same in such of the public stocks of this state, or subscribe the same to such of the public loans of this state as he shall deem most for the interest of said fund, or with the assent of the secretary of state he may loan or invest the same in such bonds and mortgages or stocks of the United States as they may deem most beneficial to said fund.

【The remainder of this act is temporary.

This law is re-enacted in § 81 of the revision.】

(Laws 1849, ch. 228; R. S., 8th ed., p. 616.)

Section 1. If the legislature, the canal board, commissioners of the canal fund, or canal commissioners, shall at any time, by virtue of constitutional and legal authority vested in them, authorize or require the payment of any sum of money out of the canal fund, for any purpose connected with the canal expenditures, to which the revenues of the canals are not applicable under the restrictions of the Constitution, the commissioners of the canal fund shall be authorized, under the tenth section of the seventh article of the Constitution, to borrow such sum of money, payable in such time, not exceeding eighteen years, and bearing such rate of interest, not exceeding seven per cent per annum, as they may deem most beneficial to the interests of the state; and the comptroller shall be authorized to issue stock therefor, in the manner provided by law for the issue of stock in other cases.

【Repealed and not re-enacted. It is now obsolete.】

(Laws 1851, ch. 286; R. S., 8th ed., p. 593.)

Section 1. All mortgages heretofore executed on premises in the city and county of New York to the commissioners for loaning certain moneys of the United States, pursuant to the provisions of the act authorizing a loan of certain moneys belonging to the United States, deposited with the people of the state of New York for safe keeping, passed April fourth, one thousand eight hundred and thirty-seven, together with the indexes relating

(L. 1851, ch. 286; R. S., 8th ed., 593.)

thereto, and all mortgages hereafter executed on premises in said city and county, and shall be deposited in the office of the register of the city and county of New York, and shall not at any time be removed therefrom unless the same shall have been paid and fully satisfied.

§ 2. The office of the said commissioners mentioned in the forty-first section of said act, shall, in the city and county of New York, be kept at the office of the register of the city and county of New York.

§ 3. So much of sections forty-one and forty-five of said act as are inconsistent with this act are hereby repealed.

【This law is repealed and not re-enacted. There are no mortgages executed under the revision, hence this law is unnecessary.】

(Laws 1853, ch. 36; R. S., 8th ed., p. 567.)

Section 1. The expenses of the necessary furniture, books, bookbinding, blanks, printing, except such printing as is provided for by the act entitled "An act to provide for the public printing," passed March fifth, eighteen hundred and forty-six, postage, express transportation, light, and all other necessary incidental expenses of the canal department, shall be paid by the treasurer, on the warrant of the auditor of the canal department, out of any canal funds in the treasury.

§ 3. Penalties remitted by the canal board and tolls refunded, if not paid by a collector of tolls, may be paid by the treasurer, on the warrant of the auditor of the canal department, out of any canal fund in the treasury.

【This law is omitted as obsolete.】

(Laws 1857, ch. 721; R. S., 8th ed., p. 616.)

Section 1. When it shall satisfactorily appear, on due proof, to the comptroller, that any certificate of stock or bond, issued by him on account of the general fund, state debt, or temporary loan to the treasury, has been lost or casually destroyed, he may issue to the lawful owner of such stock or bond a new certificate or bond, corresponding in date, number and amount with the certificate or bond so lost or destroyed, by expressing on its face that the same is a renewed certificate or bond; but no such renewed certificate shall be issued until good security be given to satisfy the lawful claim of any person or persons to the said original certificate or bond, or to any interest therein. The proofs on which such renewed certificates or bonds are issued shall be filed in the comptroller's office, and he shall report annually to

the legislature the number and amount of the renewed certificates or bonds so issued.

【Re-enacted in § 16 of the revision without change in substance.】

(Laws 1857, ch. 783; R. S., 8th ed., p. 512.)

§ 4. All certificates of stock hereafter issued by or under the direction of the commissioners of the canal fund and purporting to be issued from the canal department, shall be signed by the auditor of the canal department, instead of the comptroller, and be sealed with the seal of the canal department instead of the seal of the comptroller.

§ 5. All laws and parts of laws, so far as the same may be in conflict with the provisions of this act, are hereby repealed.

【The office of auditor being abolished, this law is obsolete.】

(Laws 1861, ch. 177; R. S., 8th ed., p. 512.)

Section 1. It shall be the duty of the auditor of the canal department to pay into the treasury, all moneys now held by him in trust for the people of this state, and the several contractors for repairs on the canals of this state, to whom repair contracts have been awarded by the contracting board, and shall also pay into the treasury all such moneys as may hereafter come into his hands to be held as security for the performance by a contractor of a repair contract, and the moneys so paid into the treasury shall be kept separate and apart from other moneys and funds belonging to this state, and shall be known and denominated as the "repair trust fund."

§ 2. The moneys so paid into the treasury by the said auditor, shall be invested, and the interest on such investments shall also be invested by the commissioners of the canal fund, in the same manner as now provided by law in respect to the surplus revenues of the canal fund, but the sum of money deposited by each contractor with the auditor and paid into the treasury, shall be invested separately from the moneys deposited by other contractors, so as that the same may be distinctly known and appear on the books of the canal department, and in the proceedings of the commissioners of the canal fund.

§ 3. Whenever any contractor or contractors or his or their assignee or assignees fail to perform his or their contract, and the same shall be declared forfeited or abandoned, the moneys so deposited by such defaulting contractor or contractors or his or their assignee or assignees with accumulations thereon shall be transferred from the said trust fund to the canal fund and there-

(L. 1861, ch. 177; R. S., 8th ed., 513.)

after held as a part of that fund; and whenever any contract, for the performance of which any deposit has been or is made as security, shall be fully executed and performed, the sum or sums so deposited with the accumulations thereon shall be repaid to such depositor on the warrant of the auditor, on the production to him of the draft of the canal commissioner in charge of the section or work under contract.

[Section 4 relates to the auditor's term of office and salary,]

§ 5. The said auditor may designate one of his clerks as deputy auditor, who, in case of the sickness or absence of said auditor, may perform any of his duties, except such duties as pertain to the contracting board, the drawing of warrants on the treasury, the auditing of accounts and the transferring of canal fund moneys from one depository to another.

§ 6. The said auditor is hereby authorized to allow and pay the sum of eight hundred dollars annually, or so much thereof as he may deem necessary beyond the sums now limited by law, as a compensation to the clerks employed by him in the canal department, but the whole sum paid for clerk hire, in the department, in any one year shall not exceed eight thousand dollars.

§ 7. The annual report and statement required by the fourteenth section of the act, chapter one hundred and sixty-two of the laws of eighteen hundred and forty-eight, to be made by the auditor to the commissioners of the canal fund, shall hereafter be made to the legislature, and shall embrace all the particulars heretofore required in the annual report of the commissioners of the canal fund.

§ 8. All acts and parts of acts, inconsistent with the provisions of this act, are hereby repealed.

**[This law is repealed and not re-enacted. It is obsolete.]**

(Laws 1863. ch. 20; R. S., 8th ed., p. 596.)

Section 1. The state of New York, by its legislature, hereby declares its acceptance of the provisions of an act passed by the congress of the United States, entitled "An act donating public lands to the several states and territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved July second, eighteen hundred and sixty-two; and the governor is hereby authorized to give such notice of the said acceptance as may be proper.

**[Re-enacted without change in substance in § 93 of the revision.]**

(Laws 1863, ch. 73; R. S., 8th ed., p. 593.)

§ 3. The said commissioners shall be entitled to include in the expenses of the sale mentioned in the act hereby amended, the fees which they shall necessarily pay for searches of records in any office, and for the taking of said affidavits, and the sum of one dollar for the service of each and every advertisement served by them, or in their behalf, in any one foreclosure; provided, however, that the cost of such service shall not in any one foreclosure exceed the sum of ten dollars.

【The remainder of this act amends parts of L. 1837, ch. 150. This section is repealed and not re-enacted. It is fully covered by revision, § 89.】

(Laws 1863, ch. 460; R. S., 8th ed., p. 596.)

Section 1. The comptroller of this state is hereby authorized to receive from the proper authorities of the United States, the land scrip to be issued for the lands granted to this state by the act of congress, approved July second, eighteen hundred and sixty-two, entitled "An act donating public lands to the several states and territories which may provide colleges for the benefit of agriculture and the mechanic arts," and to give all necessary receipts or acknowledgments for the scrip which may be so received by him.

§ 2. The said comptroller is hereby authorized, by and with the approval and concurrence of the lieutenant-governor, attorney-general, treasurer and chancellor of the university, from time to time as he may deem proper, to sell the said land scrip, or any part thereof for cash or for stocks of the United States, or of the states, or some other safe stocks, yielding not less than five per centum upon the par value of said stocks, and to execute all necessary and proper transfers thereof. But no such scrip shall be transferred and delivered to any purchaser thereof until the same shall have been fully paid for, or until payment thereof shall be fully secured by collaterals of such stocks as above specified.

§ 3. The comptroller shall make all such arrangements, employ such agents, and adopt such measures, in all respects, as he may deem most expedient for effecting a judicious sale of the said land scrip; and the treasurer, on the warrant of the comptroller, shall, from time to time, pay out any moneys in the treasury, not otherwise appropriated, all the expenses of management and superintendence, and taxes, if any, from the selection of said lands previously to their sale; and all expenses incurred in the management and disbursement of the moneys which may be received therefrom, and of all incidental matters connected with or arising out of the care, management, and sale of the said

(L. 1863, ch. 460; R. S., 8th ed., 597.)

lands; so that the entire proceeds of the sale of said lands shall be applied, without any diminution whatever, to the purposes mentioned in the said act of congress, and the sum of three thousand dollars, or so much thereof as may be necessary, is hereby appropriated to pay the expenses mentioned in said section; and also the further sum of one thousand dollars, or so much thereof as may be necessary in the judgment of the comptroller, to pay William T. Steiger, of the city of Washington, for his services in procuring and forwarding the land scrip referred to in this act. [Thus amended by L. 1864, ch. 229.]

§ 4. The moneys which may be received on the sale of the said lands or land scrip, shall, from time to time, and as often as there shall be a sufficient accumulation for that purpose, be invested by the comptroller, in stocks of the United States, or of this state, or in some other safe stocks, yielding not less than five per centum per annum on the par value of said stocks; and the money so invested shall constitute a perpetual fund, the capital of which shall remain forever undiminished, except as provided for in and by the said act of congress.

§ 5. The comptroller shall keep separate books of account in his office of all matters relating to the said land-scrip and lands, and the care, management, sale and disposition thereof, and of the investment of the moneys derived from the sale of the said lands and the land-scrip, and of the manner in which the income of the said fund may be disposed of, pursuant to any act of the legislature authorizing the application thereof, in conformity with the provisions of the act of congress aforesaid.

§ 6. The comptroller in his annual report to the legislature shall state the condition and amount of the said fund, the expenditures on account thereof, and all his proceedings and acts in regard thereto.

§ 7. All moneys received by the comptroller under the provisions of this act, shall be forthwith deposited by him in the treasury of this state, as a trust fund, with which a special office and bank account shall be kept by the treasurer, so that the said moneys shall not be intermingled with the ordinary funds of the state, and the said moneys shall be paid out by the treasurer, from time to time, on the warrant of the comptroller, when required by him for the purposes of being invested as hereinbefore mentioned.

[Re-enacted in § 93 of the revision without material change, except as follows:

(1) The provisions of §§ 1-3 as to receipt and sale of land-scrip, having been fully executed, are omitted as temporary and obsolete.

(2) The provision, as to restoration by the state of any portion of the principal which may be lost, is not expressly contained in the existing law of the state, but is expressly contained in the congressional land grant act, the provisions of which have been accepted by the state. The insertion of this provision for the first time, expressly in the law of this state, works no change in the substance of existing law, and places all the terms of the contract between this state and the United States, in the state law.

(3) The last clause of § 4 of ch. 460, L. 1863, preserving the permission given by the act of Congress, to expend ten per cent of principal for purchase of site and farm for the college land grant college omitted. The possibility of an emergency, justifying such diminution of the fund, has gone by, and the absolute requirement that the principal of the fund be preserved intact is now the settled policy both of the state and of the land grant university.

(4) Sections 5-7 of ch. 460, L. 1863, as to separate accounts of the fund, and annual report thereof by comptroller, are omitted because provided for in § 4 of this chapter.】

(Laws 1864, ch. 553; R. S., 8th ed., p. 594.)

Section 1. In addition to the mode of loaning money heretofore authorized, the commissioners of the United States loan fund may invest any moneys in their hands, or which may hereafter come into their hands in the purchase, at not over the par value thereof, of bonds of their respective counties, issued for the purpose of raising money to pay bounties to volunteer soldiers, in accordance with or made legal by statute law of this state, and bearing not less than seven per cent. interest. The said commissioners shall keep a correct record of said bonds in their book of mortgages, and also in their minute book, and transmit the said bonds to the comptroller to be deposited in his office for safe keeping; but the interest thereon shall be paid to the commissioners, who shall give proper receipts for the same, and shall transmit the said interest in like manner in all respects as they are directed to transmit interest on mortgages.

【This law is repealed and not re-enacted. It is now obsolete.】

(Laws 1868, ch. 698; R. S., 8th ed., p. 594.)

Section 1. It shall and may be lawful for the comptroller, upon satisfactory proof that any moneys loaned by commissioners for loaning the United States deposit fund and secured by mort-

gage have been fully paid to either of the commissioners authorized to receive the same, in case the mortgage for any reason remains uncanceled and undischarged of record, to authorize and empower the proper commissioners of the said fund to cancel and discharge the said mortgage in the manner prescribed by law, and the said commissioners shall, in pursuance of the order and direction of the comptroller, cancel and discharge such mortgage.

【This law is re-enacted in § 83 of the revision, without substantial change.】

. (Laws 1872, ch. 115; R. S., 8th ed., p. 513.)

§ 4. Hereafter each warrant that may be drawn by the auditor of the canal department upon the treasurer for the payment of any moneys heretofore or hereafter appropriated by law, shall particularly specify the chapter and date of the passage of such law, and when more than one item of appropriation is contained in any such law, then the said warrant shall also specifically state the item of appropriation out of the sum of which the amount of such warrant shall be paid.

【Re-enacted in § 4 of the revision, without change in substance.】

(Laws 1877, ch. 245; R. S., 8th ed., p. 1585.)

Section 1. The state treasurer is hereby authorized and directed to cause to be published in the state paper, on or before the tenth day of each month, a detailed statement of the balances in the several banks designated by the canal board, commissioners of the canal fund, or other state officers, as depositories of state funds. Such statements shall give the name of each bank, and the amount subject to draft at the close of the month preceding such publication.

§ 2. It shall be the duty of the comptroller, secretary of state, superintendents of the insurance and banking departments, and the clerk of the court of appeals, to cause to be published in said state paper similar statements, at the time and in the manner aforesaid, giving the name of the bank and the amount on deposit at the close of the month preceding such publication, and it shall be the further duty of the state officers named in this section, to certify to the state treasurer on or before the tenth day of the months of January, April, July and October, in each and every year, the amount on deposit, at the close of the quarter preceding such certificate, in each and all of the banks designated by them respectively, and the amounts so certified shall be transferred to the general depository of state funds

in the city of Albany, by check signed by the state treasurer, and countersigned by the officer making the deposit.

【Re-enacted in § 9 of the revision, without change in substance.】

(Laws 1878, ch. 291; R. S. 8th ed., p. 509.)

Section 1. The comptroller of this state is hereby authorized and empowered, with the approval of the attorney-general, to compromise, compound, settle, discharge and release any judgment or contract debt not in judgment against an individual or corporation, in favor of the state, in cases where more than ten years have now elapsed since the recovery of such judgment or the contraction of such debt, upon such terms as the comptroller and attorney-general may deem best for the interests of the state.

【This law is re-enacted in § 36 of the revision, without change in substance.】

(Laws 1880, ch. 100; R. S. th ed., pp. 509-10.)

Section 1. The state comptroller is hereby empowered, from time to time, as may be required, to issue bonds in anticipation of the state tax, authorized to be levied for the current expenses of the government, which bonds shall be made payable on or before the fifteenth day of May next, following date of issue, and draw interest at the lowest rate obtainable by the comptroller.

§ 2. The proceeds of the bonds issued in pursuance of section one of this act shall be applied in payment of the current expenses of the government, and to no other object, and so much as is necessary of the taxes in anticipation of which said bonds are issued, when received into the state treasury, shall be applied exclusively to the payment of the principal and interest of said bonds.

§ 3. The gross amount of the bonds issued, as hereinbefore provided for, shall at no time exceed fifty per centum of the amount of taxes authorized to be levied and collected for the current expenses of government for the fiscal year in which said bonds are issued, and the comptroller shall include in his annual report to the legislature a detailed statement of all bonds so issued.

【Re-enacted in § 15 of the revision, without change in substance.】

(Laws 1880, ch. 517; R. S. 8th ed., p. 595.)

Section 1. The interest on all mortgages on real estate held by the commissioners for loaning the United States deposit fund shall be from the first day of October, eighteen hundred and ninety-one, five dollars upon one hundred dollars for one year, and

after that rate for a greater or less sum, or for a longer or shorter time. (Thus amended by L. 1891, ch. 181.)

[The remainder of this statute amends § 18 of the act of 1837.]

**[Re-enacted in § 88 of the revision, without change in substance.]**

(Laws 1884, ch. 415; R. S. 8th ed., p. 2150.)

Section 1. It shall be the duty of the board of trustees or managers of each charitable or benevolent institution in this state, supported in whole or in part by moneys received from the state, or by any county, city or town thereof, to designate by resolution, to be entered upon their minutes, some duly incorporated national or state bank or trust company as the depository of the funds of such institution.

§ 2. After such designation, it shall be the duty of the treasurer of each such charitable or benevolent institutions immediately to deposit in the bank or trust company so designated, in his name as treasurer of the institution, naming it, all funds of the institution which may come into his possession.

**[Re-enacted in § 11 of the revision, without change in substance.]**

(Laws 1885, ch. 525; L. 1888, ch. 270; R. S., 8th ed., p. 2150.)

**[Not repealed. Inserted here to show the derivation of §§ 17-21 of the revision.]**

The managers, trustees, superintendent, or other proper officers of each state hospital, asylum, charitable or reformatory institution, the state commissioner in lunacy, the state board of charities, the state board of health and shore inspector shall quarterly, on January first, April first, July first and October first of each fiscal year, render to the comptroller a detailed, itemized and particular account of all receipts and expenditures, with sub-vouchers of such state hospital, asylum, charitable or reformatory institution, state commissioner in lunacy, state board of charities, state board of health and shore inspector during the three months preceding. Such accounts shall be receipted and verified by the oath or affirmation of the officer rendering the same; and the comptroller shall examine and audit such accounts with the same authority as if they had been liquidated and paid in full from moneys appropriated from the state treasury. The accounts shall give in detail the source of all receipts, including any sums received from each county, and be accompanied by original and proper vouchers covering the items of expenditures, unless such vouchers shall have been previously filed with the comptroller, or

(L. 1885, ch. 525; L. 1888, ch. 270; R. S., 8th ed., 2150.)

with the treasurer of counties, or other persons entitled to receive the same.

All state institutions receiving moneys, in whole or in part, from the state treasury for maintenance, shall deposit all its funds in banks or bank at the best attainable interest, said banks or bank to give a bond for the security of such deposit, to be approved by the comptroller; and all state institutions or departments, excepting charitable institutions, reformatories and houses of refuge, shall pay into the treasury, quarterly, all receipts and earnings other than receipts from the state treasury.

All state charitable institutions, reformatories and houses of refuge shall file with the comptroller, on or before October twentieth of each year, a certified inventory of all articles of maintenance on hand at the close of the preceding fiscal year naming in such inventory the kind and amount of such article of maintenance.

All state charitable institutions, reformatories, houses of refuge, the state agricultural experiment station, the quarantine commissioners and the shore inspector shall report to the legislature in their annual report, by name, an inventory of each article of property, excepting supplies for maintenance, belonging to the state in their possession on October first of each year.

The comptroller is empowered and authorized to devise a form of accounts to be observed in any state charitable institution, reformatory, house of refuge, or department, which shall be accepted and followed in such institutions or departments after thirty days' notice thereof has been submitted by the comptroller. And such form of accounts shall include such a uniform method of book-keeping, filing and rendering of accounts as may insure a uniform mention of purchase of like articles, whether by the pound, measure, or otherwise, as the interest of the public service require. Such form shall also include a uniform rate of allowance in reporting in such institutions and departments the amount and value of all produce, and other articles of maintenance raised upon lands of the state, and which may enter into the maintenance of such institution or department.

It shall be the duty of the clerk or bookkeeper in each state charitable institution, reformatory, house of refuge or other department, to receive and examine all articles purchased by the proper officer, or received for the maintenance thereof, to compare them with the bill thereof, to ascertain whether they correspond in weight, quantity and quality, and to inspect the supplies thus received. And said clerk shall also enter each bill of goods thus received in the books of the institution or department in which he is appointed, at the time of the receipt of the articles, and if

(L. 1885, ch. 525; L. 1888, ch. 270; R. S., 8th ed., 2151.)

any discrepancy is found in such bill on the article received, he shall make a note of such, whether it be in weight, quality or quantity, and no article or goods or other article of purchase, or farm or garden production of lands of the institution shall be received, except it be so entered in the book of accounts of the institution, with the proper bill, invoice or mention, according to the form of accounts and record prescribed by the comptroller. In accounts for repairs or new work, the name of each workman, the number of days he is employed, and the rate and amount of wages paid to him shall be given. If contracts are made for repairs or new work, or for supplies, a duplicate thereof, with specifications, shall be filed with the comptroller.

§ 2. This act shall take effect immediately.

[That part of this act referring to the forms of accounts, rendering of accounts by public institutions, the keeping of such accounts and the taking of an inventory is generally attached to annual supply bills. These provisions are placed in §§ 17-21 of the revision. Their enactment will render the future placing of such provisions in the supply bills unnecessary.]

(Laws 1887, ch. 245; R. S., 8th ed., p. 616.)

Section 1. In addition to the investments now authorized by law of the principal of the common school fund, the literature fund and the United States deposit fund, the comptroller may hereafter invest the principal of the said funds in the public securities of the villages, towns, cities, union free school districts and counties of this state; and when he shall deem it for the best interest of such funds, or either of them, he may dispose of any of the public securities held therein, in the making of investments authorized by law, and he may exchange the securities of any one of said funds for those held in any other of said funds; and he may also hereafter with the approval of the commissioners of the canal fund, and upon such terms as shall be approved by them, transfer to the canal debt sinking fund, in exchange for securities held in said fund, any securities held for either of said other funds. [Thus amended by L. 1889, chap. 50.]

[The first two clauses of this law are re-enacted in § 8 of the revision; the last clause is re-enacted in § 61 of the revision, without change in substance.]

(Laws 1887, ch. 637; R. S., 8th ed., p. 616.)

Section 1. There shall be established in the treasury of this state a fund which shall be known and designated as the prison fund; it shall consist of all moneys raised by taxation for prison

purposes or heretofore appropriated and unexpended therefor, and all moneys arising from the sale of the products or property of the prisons, and all such moneys, whenever received in the treasury, shall be placed to the credit of such fund; and all appropriations made for any of the prisons of this state (except for repairs other than the ordinary repairs thereof), for the maintenance thereof, for the purchase of materials therefor, and for manufacturing therein, shall be paid by the treasurer from such fund, upon the warrant of the comptroller.

[This law is re-enacted in § 100 of the revision without change in substance.]

(Laws 1888, ch. 326; R. S., 8th ed., p. 535.)

Section 1. All officials of the state of New York, and other persons receiving and disbursing moneys belonging to the people of said state for public purposes, shall be and are required to deposit and keep, all such moneys received by them, deposited to their official credit in some responsible bank, or banks or banking house, to be designated by the comptroller of said state, until said moneys shall be paid out and disbursed according to law.

§ 2. Every bank or banking house that has received or shall receive on deposit any moneys belonging to the people of the state of New York shall, when so required to do by the comptroller, execute, deliver and file in the office of the comptroller of said state at the city of Albany, a bond or undertaking to the people of said state, in such sum and with such sufficient guarantee and sureties as shall be required and approved by said comptroller, for the safe keeping and prompt payment upon legal demand therefor, of all such moneys held by or on deposit in such bank, with interest thereon upon daily or monthly balances, and at such rate as the said comptroller shall fix and approve.

§ 3. All bonds, undertakings, guarantees and covenants or agreements of sureties, hereafter executed or given by or in behalf of any bank or banking house to the people of the state of New York, shall be approved as to form by the attorney-general indorsed thereon or annexed thereto.

§ 4. The foregoing provisions of this act are in addition to and shall not be construed as in conflict with, or to change, any special or other general laws requiring bonds to be given by any public officials of this state, or any banks receiving on deposit moneys belonging to the people of this state, nor shall it apply to the treasurer of said state.

[This law is re-enacted in § 10 of the revision, without change in substance.]

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THE  
CANAL LAW

CONTAINING

- I. COMMISSIONERS' DRAFT OF THE CANAL LAW.  
II. COMMISSIONERS' MEMORANDUM EXPLANATORY THEREOF.  
III APPENDIX TO THE CANAL LAW, CONTAINING THE LAWS  
PROPOSED TO BE REPEALED THEREBY.
-



COMMISSIONERS' DRAFT  
OF  
THE CANAL LAW.

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AN ACT relating to canals, constituting chapter 13 of the  
General Laws.

*The People of the State of New York, represented in Senate  
and Assembly, do enact as follows:*

CHAPTER XIII OF THE GENERAL LAWS.

The Canal Law.

- Article 1. State canals. (§§ 1-5.)  
2. Canal board. (§§ 10-15.)  
3. Superintendent of public works. (§§ 20-38.)  
4. State engineer; department of canals. (§§ 50-58.)  
5. Appropriation of lands and water. (§§ 70-78.)  
6. Surplus waters. (§§ 90-101.)  
7. Highways and bridges. (§§ 110-118.)  
8. Contracts. (§§ 130-146.)  
9. Navigation. (§§ 160-182.)

ARTICLE I.

State Canals.

- Section 1. Short title.  
2. Designation of canals.  
3. State dam at Waterloo.  
4. Maps and field-notes.  
5. Copies of maps and field-notes in county clerk's offices.

Section 1. Short title.—This chapter shall be known as the  
canal law.

§ 2. Definitions.— This chapter applies to the following canals:

1. The Erie canal, connecting the waters of Lake Erie with those of the Hudson river.

2. The Champlain canal, connecting the waters of Lake Champlain with those of the Hudson river.

3. The Cayuga and Seneca canal, commencing at Geneva and terminating near Montezuma, connecting the waters of Seneca lake with the Erie canal.

4. The Oswego canal, commencing at Syracuse and terminating at Oswego.

5. The Black River canal and Erie canal feeder, extending from the foot of the high falls in the Black river, in the county of Lewis to the Erie canal at Rome, with a navigable feeder from the Black river to the summit level near the village of Booneville.

The term canal as used in this chapter, includes all the side cuts, feeders and other works belonging to the state connected therewith.

[R. S., pt. 1, ch. IX, tit. 9, § 1; R. S., 8th ed., 691, without change in substance.]

§ 3. State dam at Waterloo.— The superintendent of public works is authorized to maintain a state dam at Waterloo, at a height not exceeding the height of the original state dam at that place, but so as not to raise the waters of Seneca lake above the natural height of the waters of the lake, and when the bridge above the outlet of the lake is rebuilt, to lower the same to a height no more than sufficient to pass the largest size canal boats, but no claim shall be made or allowed for any damages to any property by reason of raising such dam to its original height.

[L. 1867, ch. 752, §§ 1, 3; R. S., 8th ed., 695, without change in substance.]

§ 4. Maps and field-notes.— There shall be kept on file in the office of the state engineer complete manuscript maps and field-notes of every canal now or hereafter to be built and of all the lands belonging to the state adjacent thereto or connected therewith, in which the boundaries of every parcel of land to which the state shall have a separate title, shall be designated, and the

names of the former owners and the date of each title entered. The expense of all such maps and field-notes shall be paid out of the appropriations made for the support and maintenance of the canals. All such maps and field-notes approved by the canal board or canal commissioners or certified by such board or commissioners or by the state engineer to be correct, shall be presumptive evidence of the truth of the facts therein stated and of the ownership by the state of the lands therein described.

[R. S., pt. 1, ch. IX, tit. 9, §§ 4, 5; R. S., 8th ed., 692, L. 1837 ch. 451, § 6; R. S., 8th ed., 779, without change of substance. The limitation of expense to \$5,000 has been omitted, as no work involving such an expenditure for that purpose would be undertaken without legislative authority and the expense would be limited by the appropriation.]

§ 5. Copies of maps and field-notes in county clerk's office.— A copy of every map and of all field-books and notes so filed or of such part thereof as relate to the canal lands in any county, certified by the state engineer to be a correct copy thereof, shall be filed in the clerk's office of such county, and shall be evidence with like force and effect as the original maps and field-notes of which it is a copy. Transcripts of a part of any such map or field-notes certified by the officer having the custody of the original or certified copies from which they are made, to be correct copies thereof, shall be evidence as to the parts contained in such transcripts, with the same force and effect as if the originals were produced.

[R. S., p. 1, ch. IX, tit. 9, §§ 6, 7; R. S., 8th ed., 693; L. 1837, ch. 451, § 6; R. S., 8th ed., 779; without change in substance.]

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## ARTICLE II.

### Canal Board.

Section 10. General powers.

11. Power to permit erections for commercial or manufacturing purposes.

12. Meetings and publication of minutes.

Section 13. Investigation of charges against superintendents of repairs, and other officers of the board.

14. Frauds to be investigated.

15. Witnesses on investigation; expenses.

§ 10. General powers.—The canal board may:

1. Make, from time to time, rules and regulations, not inconsistent with law, for the transaction of the business of the board, the discharge of its duties, the conduct of hearings before it, and in respect to all matters connected with the navigation of the canals, and impose a forfeiture of money for the breach of any such rules or regulations, not exceeding twenty-five dollars for a single offense, and prosecute therefor in the name of the state, and shall account for or pay over all moneys received on such prosecution, to the commissioners of the canal fund.

2. Determine the boundaries of the three divisions of the canals of the state, and change such boundaries when deemed expedient.

3. Determine whether any lands, taken for the purposes of the canals, may be sold beneficially to the state.

4. Determine whether lands, taken for the purposes of the canals, have been abandoned.

5. Investigate all matters and transactions connected with or pertaining to the canals of the state, and take proofs in regard to any matter pending before the board or which it is authorized to examine or investigate.

6. Appoint one or more members of the board a committee to hear any matter pending before it and take proofs in regard thereto and report thereon to the board, with the proofs taken and his or their opinion thereon. Such members shall have the same powers with respect to such hearing as the board would have had if it had been before such board.

7. Grant a rehearing in any case where they are authorized to adjudicate, when, in their judgment, justice may require it, if application in writing be made therefor within sixty days after such hearing or adjudication; but there shall not be more than one rehearing and the decision on any such rehearing shall be final and conclusive.

8. Remit, either absolutely or on such conditions as they prescribe, any forfeiture incurred by a violation of any provision of this chapter, or any of the rules and regulations established by the board or by the superintendent of public works, and the written petition of the person liable for the forfeiture, with due proof of the facts on which the application for the remission is founded, which petition and proofs and the order of the board thereon shall be filed and preserved in the office of the comptroller.

9. Examine and approve or disapprove, by a resolution to be entered upon its minutes, all plans, specifications and estimates transmitted to it by the state engineer and a certificate of such approval, when given, shall be indorsed by the clerk of said board upon each of such plans. But if the estimate exceed \$30,000, they shall report such estimate and plan with their opinion thereon to the legislature.

10. Order the sale for a term of years to the person bidding the highest annual rent therefor of any surplus waters which may be spared on any canal or works connected therewith, without injury to the navigation and safety of the canals, when the persons entitled to the first privilege of taking such waters, do not avail themselves thereof or there is no person so entitled.

[R. S., pt. 1, ch. IX, tit. 9, §§ 72, 73, 74, 75; R. S., 8th ed., 737, L 1835, ch. 21; R. S., 8th ed., 738.  
L. 1837, ch. 451, § 5; R. S., 8th ed., 779,  
L. 1840, ch. 201; R. S., 8th ed., 738,  
L. 1841, ch. 160, § 4; R. S., 8th ed., 740.  
L. 1849, ch. 352, § 3, as am. by  
L. 1870, ch. 55, § 7; R. S., 8th ed., 735,  
L. 1876, ch. 388, § 1; R. S., 8th ed., 744,  
consolidated without change in substance, except that subdivision 6 is partly new; under L. 1841, ch. 160, § 4 such committee could be appointed only in cases of claims for extra allowance by contractors and must consist of three members.]

§ 11. Power to permit erections for commercial or manufacturing purposes.—The board may grant permission, on such terms and conditions as it deems proper, for the erection of warehouses, mills, or other buildings for commercial or manufacturing pur-

poses upon any dam, pier, mole, or other work erected by the board or by the superintendent of public works in any canal, lake, river or other body of water, and for the use of such an amount of water power created by such dam, pier, mole, or other work as may in the opinion of the board, be so erected and used without injury thereto, and without detriment or obstruction to the public use thereof or to the navigation of such canal, lake, river or other body of water; such permission, except in the case of the pier in the Niagara river at Black Rock, shall be granted only to the owner of the land from which the water to be used flows, or the owner of the land adjoining the river or other stream of water at the place where such dam, mole, or other work is erected.

Such permission shall be by resolution of the board, entered at full length in the minutes, including all the terms, conditions and stipulations which the board deem expedient, and a written lease in duplicate shall be executed in conformity to such resolution, by the comptroller, on behalf of the state, and by the lessee; one of such duplicates shall be deposited in the office of the comptroller and the other delivered to the lessee.

Every such building shall be erected at such point, on such plan and not exceeding such dimensions as the superintendent of public works specifies, by a minute in writing, recorded at full length in his office, a copy of which, certified by him, with a written assent of the lessee endorsed thereupon or annexed thereto, shall be filed in the office of the comptroller before the delivery of the lease. This section does not affect or impair the restriction of leasing surplus waters under the joint resolution of the senate and assembly, passed April 25, 1831.

[L. 1840, ch. 292, §§ 1, 2, 3, 4; R. S., 8th ed., 739,  
without change in substance.]

§ 12. Meetings and publication of minutes of board.—The assent of four members of the board shall be required for the adoption of all questions or resolutions, involving the expenditure or appropriation of the public moneys, and all such questions or resolutions shall be taken by ayes and noes and entered upon the minutes. The secretary of the board shall cause the minutes of

the board to be published in the state paper as soon as may be after each session.

[L. 1854, ch. 332, §§ 1, 2; R. S., 8th ed., 740, without change in substance, except that the reduction of the number of members of the canal board from nine to seven, caused by the abolition of the office of canal commissioner, has made a majority of that board four instead of five, and therefore, by this section, the assent of four members is required for the adoption of resolutions.]

§ 13. Investigation of charges against superintendent of repairs and other officers of the board.—When any charges of misconduct, malfeasance or incompetency in office are made against any superintendent of repairs or other officer appointed or employed by the canal board or by the superintendent of public works, the canal board may direct the district attorney of the county where such official misconduct, malfeasance or incompetency is charged to have been committed or exhibited, to conduct an inquiry into the truth of such charges before the county judge of the county, and the same proceedings shall be had thereon as are provided by law in the case of charges made for the removal of a sheriff or county clerk, except that the testimony so taken shall be transmitted to the canal board. The necessary expenses of any such inquiry shall be certified by the canal board and paid by the commissioners of the canal fund out of the canal revenues.

[L. 1841, ch. 160, § 3; R. S., 8th ed., 740, without change in substance, except that by Const., art. V, § 3, the power of suspension and removal of employes in the department of public works is conferred on the superintendent, and by L. 1876, ch. 385, the state engineer was empowered to remove his subordinates.]

§ 14. Frauds to be investigated.—The superintendent of public works or the state engineer may report to the board any suspected fraud or misconduct on the part of any engineer or assistant, in relation to the public works, and the board may employ such agents and engineers as they deem proper, to aid in the investiga-

tion of such charges and draw on the commissioners of the canal fund for the expenses of such investigation.

[L. 1848, ch. 72, § 1; R. S., 8th ed., 526, without change in substance, except that in L. 1848, the power of investigation and removal was vested in the board and therefore the duty to report was compulsory. The state engineer may now dismiss without taking this proceeding.]

§ 15. Witnesses on investigation; expenses.—The examination of a witness in an investigation by the board or a committee thereof, shall be open and public if such witness so request. A witness may have counsel and his examination by such counsel shall be reduced to writing as a part of his deposition. Other witnesses on the same matter may be excluded by the board or committee during the examination of a witness. A person examined under this article shall not be excused from testifying on the ground that his evidence would tend to criminate or degrade him but his testimony shall not be used against him in any criminal action or proceeding. All evidence taken under this article shall be filed with the attorney-general. On the order of the board, the comptroller shall pay all expenses incurred by it in an investigation out of any moneys in the treasury appropriated for canal purposes.

[L. 1876, ch. 388, §§ 2, 3, 13; R. S., 8th ed., 744, without change in substance.]

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### ARTICLE III.

#### Superintendent of Public Works.

Section 20. Superintendent of public works.

21. Assistant superintendent.

22. Deputy superintendent.

23. General powers and duties of superintendent.

24. Accounts of superintendent.

25. Powers with reference to railroads near the canals.

26. Duties of superintendent of repairs.

Section 27. Advances to superintendent of repairs.

28. Monthly abstracts of disbursements of superintendent of repairs.

29. Police powers.

30. Administration of oaths by clerks and special agents.

31. Exemption of canal officers from arrests in civil action.

32. Ineligibility to appointment on the canals.

33. Canal officers not to be interested in boats, contracts or hydraulic works.

34. Delivery of property upon discharge of employes.

35. Canada thistles and other noxious weeds on the banks of canals to be cut.

36. Commissioners of the canal fund to allow claims.

37. Claims for damages.

38. Electrical or other improved system of towage.

§ 20. Superintendent of public works.—The superintendent of public works shall be paid an annual salary of \$6,000 and all traveling expenses necessarily and actually incurred in the discharge of his duties. Before entering on the duties of his office, he shall execute an official undertaking in the sum of \$50,000, to be approved by and filed in the office of the comptroller, and to be renewed as often as the governor requires. The sureties on such undertaking and on the undertaking of the assistant superintendents and deputy superintendents shall be freeholders of this state.

[L. 1877. ch. 85, § 1; R. S., 8th ed., 536, without change in substance, except that the part of the section relating to the appointment of the superintendent of public works is omitted, as it is contained in Constitution, art. V, § 3.]

§ 21. Assistant superintendents.—The assistant superintendents appointed by the superintendent of public works shall each be paid an annual salary of \$3,000, and all traveling expenses necessarily and actually incurred in the discharge of their official duties. Before entering on the discharge of the

duties of his office, each assistant shall execute an undertaking in the sum of \$20,000, to be approved by and filed in the office of the comptroller and to be renewed as often as the superintendent may require.

[L. 1877, ch. 85, § 2; R. S., 8th ed., 536,  
without change in substance.]

§ 22. Deputy superintendent.—The superintendent may appoint one of his clerks a deputy, to hold office during his pleasure, who may perform any of the duties of the superintendent, except those imposed upon him as a member of the canal board, and except the signing of drafts on the comptroller. Such deputy shall not receive any additional salary or compensation for the performance of such duties, and before entering on the duties of his office, he shall execute an undertaking in the sum of \$25,000, to be approved by and filed with the comptroller and renewed as often as the governor may require.

[L. 1887, ch. 123; R. S., 8th ed., 537,  
without change in substance.]

§ 23. General powers and duties of superintendent.—The superintendent of public works shall:

1. Have the general care and superintendence of the canals; enforce the faithful execution and observance of the canal law by all persons, and as a member of the canal board be entitled to one vote therein.

2. Assign an assistant superintendent to the charge of each of the three divisions of the canals, subject to his direction, supervision and control.

3. Employ such agents and other persons, except engineers, as he deems necessary to enable him to discharge his duties.

4. Fix the compensation for the services of all officers, clerks and employes appointed by him, whose salary is not fixed by law, and make and file with the comptroller a schedule of the compensation so fixed.

5. Enquire into the official conduct of all superintendents of repairs, lock-keepers and other subordinates, and receive and hear all complaints preferred against them.

6. Call on the state engineer for the assignment of an engineer, whenever the services of an engineer are required upon any portion of the canals undergoing repairs, or upon any construction or improvement work.

7. Provide all necessary tools, materials and labor for the construction, improvement, repairs or navigation of the canals and make payment therefor on or before the fifteenth day of the month following that in which the same is provided.

8. When construction or improvement work is ordered by the legislature or canal board, request from the state engineer the requisite survey, maps, plans, specifications and estimates, and on their adoption by the canal board, take measures for the execution of such work; and before contracting for any work, submit to the state engineer the maps, plans, profiles and estimates therefor.

9. Direct and cause to be made such ordinary repairs of the canals as he deems necessary, and such extraordinary repairs and improvements thereof as are ordered by the canal board.

10. Make all such canals, feeders, locks, dams, aqueducts and other works as he deems the construction of every canal authorized by law to require; and enter upon, take possession of and use all lands, streams and water, the appropriation of which for the use of such canals and works is, in his judgment, necessary.

11. Keep in complete repair all edifices and weighing scales built or purchased for the use of the canal, and, at such times and places as the canal board direct, erect further edifices or weighing scales and purchase ground necessary therefor.

12. Make all necessary rules and regulations for the safe and speedy navigation, protection and maintenance of the canals and the structures thereof, for the government of all employes engaged in their construction, improvement, repair and navigation, and for the payment for tools, materials and labor; impose such forfeitures of money, not exceeding the sum of twenty-five dollars for each offense, as he deems reasonable for the breach of such rule or regulation; cause such rules and regulations to be filed with the comptroller and a sufficient number of copies thereof, specifying the forfeiture for the breach thereof, to be printed and dis-

tributed to the assistant superintendents, superintendents of repairs and lock-keepers, to be kept in their respective offices for public inspection.

13. Permit, in his discretion, any person residing in the vicinity of any of the canals to cut, gather and haul away, for the domestic use of such person, ice from such canals whenever the same can be done without causing damage to the banks or other structures thereof.

14. Have charge of and exercise the same powers that he has as to other canals, over so much of the navigable waters of the Cayuga inlet as are necessarily used in connection with the canals; and cause such obstruction to be removed therefrom and such improvements to be made therein as may be necessary, from time to time, to keep the channel of such inlet of sufficient depth and capacity to admit the passage of any boat or water craft navigating the Erie canal.

15. Report to the legislature annually, on or before February fifteenth, the trade and tonnage transported upon the canals of the state during the preceding season of navigation, and within twenty days after the commencement of each annual session, the condition of the canals and the work and improvements connected therewith, the improvements and repairs made or contemplated during the past year, the amount of moneys received and expended during the same period, with recommendations of such measures in relation to the canals as in his judgment the public interests require.

[R. S., pt. I, ch. IX, tit. 9, §§ 9, 15, 16, 24-27, 44, 69; R. S., 8th ed., 716,

L. 1848, ch. 72, § 10; R. S., 8th ed., 527,

L. 1852, ch. 246, § 1; R. S., 8th ed., 725,

L. 1866, ch. 836, § 1; R. S., 8th ed., 742,

L. 1880, ch. 493, §§ 1, 2, 4, 5; R. S., 8th ed., 728,

L. 1883, ch. 244, § 1; R. S., 8th ed., 729,

L. 1884, ch. 362, § 1; R. S., 8th ed., 2414.

Article V, § 3 of the constitution abolished the offices of canal commissioners and imposed their duties on the superintendent of public works. By this section of the constitution, the superintendent was charged with the execution of all laws relating to the canals. The duties and powers prescribed in this

section of the revision are those formerly belonging to the canal commissioners, together with those imposed since the abolition of the office, without change in substance.】

§ 24. Accounts of superintendent.—The superintendent shall take duplicate receipts of all moneys advanced or paid by him and keep an accurate account of the recoveries in all actions brought by him, or under his direction, for the recovery of penalties or damages under this chapter and of the cost and expenses thereof; and after deducting such costs and expenses, pay over the remainder of such recoveries to the commissioners of the canal fund, or account for the same with the comptroller. He shall account and settle with the comptroller annually on or before January fifteenth, for all moneys received by him from the commissioners of the canal fund or belonging to that fund or out of and belonging to the treasury, and shall specify in his accounts the sums respectively paid to all contractors, agents and employes of every description employed on the canals and to all persons having received compensation for damages; and the names of such persons and the amounts received by them respectively shall forthwith be reported by the comptroller to the legislature.

【R. S., pt. 1, ch. IX, tit. 9, §§ 30, 41, 42; R. S., 8th ed., 720, without change in substance.】

§ 25. Powers with reference to railroad near the canals.—The superintendent of public works shall have a general supervisory power over so much of any railroad as passes over any canal or feeder belonging to the state or approaches within ten rods thereof, so far as may be necessary to preserve the free and perfect use of such canals or feeders, or for making any repairs, improvements or alterations thereupon. No railroad corporation shall construct its railroad over or at any place within ten rods of any canal or feeder belonging to the state, unless it submits to the superintendent of public works a map, plan and profile of such canal or feeder and of the route designated for its railroad, exhibiting distinctly and accurately the relation of each to the other at all the places within the limits of ten rods thereof, and obtain the written permission of the superintendent of public works and of the canal

board for the construction of such railroad, with such conditions, directions and instructions as, in his judgment, the free and perfect use of any such canal or feeder may require.

[L. 1834, ch. 276, § 17; R. S., 8th ed., 721, without change in substance.]

§ 26. Duties of superintendent of repairs.—Every superintendent of repairs shall be under the direction of the superintendent of public works, and especially of the assistant superintendent having charge of the line of the canal on which he is employed. Before entering on his duties he shall execute and file in the office of the comptroller an official undertaking in such sum and form as the canal board directs and with such sureties as the comptroller approves.

He shall, under the direction of the superintendent of public works or assistant superintendent, keep in repair such section of the canals and works and buildings connected therewith committed to his charge, make all necessary contracts for that purpose and faithfully expend and account for all moneys placed in his hands by the superintendent of public works, the commissioners of the canal fund or the comptroller and treasurer. At least once in sixty days he shall render an account of his receipts and expenditures to the comptroller who shall audit the same, and if he neglects to render such account or his account rendered is not approved by the comptroller, the comptroller shall notify the canal board and the commissioners of the canal fund thereof, and no further advances of money shall be made to such superintendent and he shall be immediately removed from office. The assistant superintendent having charge of that part of the canal on which a superintendent of repairs is employed, or the superintendent of public works, shall certify upon every account presented by any such superintendent of repairs to the comptroller and before its approval by the comptroller, that he has examined the same, that the several disbursements specified therein were made upon the canal, under the direction of such assistant superintendent or the superintendent of public works, or were for repairs necessary to be made thereon and

that he believes such disbursements to be proper and reasonable, and to have been made as charged.

[R. S., pt. 1, ch. IX, tit. 9, §§ 99-103; R. S., 8th ed., 752, without change in substance.]

§ 27. Advances to superintendent of repairs.—No advance of money shall be made to a superintendent of repairs until he makes out a detailed statement in such form as the superintendent of public works prescribes, of the several proposed objects of expenditure upon the line of the canal under his charge, covering a period of two months.

The superintendent of public works or the assistant superintendent in charge shall indorse upon such statement or append thereto his allowance or disallowance of each particular object of expenditure named therein, or if he considers the sum estimated for any object or work excessive, the amount which in his judgment may be required for such work or object. When such estimates are filed in the office of the comptroller, the comptroller shall make advances thereon, not exceeding the amount approved by the superintendent or assistant superintendent. Every such superintendent of canal repairs or engineer shall apply the sums so advanced exclusively to the work or object named in the estimate for the expenditure and approved by the superintendent of public works or the assistant superintendent of public works.

[L. 1837, ch. 451; R. S., 8th ed., 779,  
L. 1880, ch. 493, § 3, as amended by  
L. 1881, ch. 27; R. S., 8th ed., 729,  
L. 1859, ch. 495, § 8; R. S., 8th ed., 742,  
consolidated without change in substance.]

§ 28. Monthly abstracts of disbursements of superintendent of repairs.—Every superintendent of repairs, or officer on whom the duties of such superintendent devolves, shall, on or before the twentieth day of each month, publish in the entire weekly edition of a newspaper published in a county through which the section of the canal in his charge passes, and in a newspaper published in a city or town located on the line of such section, or in the county of

his residence, if possible, an abstract, in such form as the comptroller prescribes, of his official disbursements during the preceding calendar month, stating the name and residence of every person to whom he has paid money; the amount paid to each; if for labor, the number of days and the amount per day; if for material, the kind, quantity and price, and the tools and implements purchased, if any. Such abstracts shall be verified by the oath of such superintendent, and a duplicate thereof filed in the office of the clerk of the county in which he resides, and be open to the inspection of the public during office hours. The expense of such publication, not exceeding the legal rates allowed for the publication of the session laws in such county, may be included in the monthly abstract of such superintendent and paid in the same manner and upon like vouchers as his other disbursements and expenses are audited and paid. The form and manner of such publication may be prescribed by the comptroller and the expense of publication shall be determined and approved by him.

Immediately after the publication and filing of such abstract, the superintendent shall transmit to the comptroller a certificate, in the form prescribed by the comptroller, that the same has been published and filed as required by law and shall state therein the aggregate amount of the abstract.

[L. 1853, ch. 52, as amended by  
L. 1874, ch. 172; R. S., 8th ed., 753,  
without change in substance.]

§ 29. Police powers.—The superintendent of public works, deputy superintendent, each assistant superintendent, foreman of sections or lock-tender has all the authority of a peace officer, with a warrant, to arrest any person engaged in the commission of a crime affecting any of the canals, or any person whom he has reasonable cause to believe has committed such crime; and shall forthwith take the person so arrested before any magistrate of the county within which the crime is committed, to be dealt with according to law.

[L. 1880, ch. 493, § 5; R. S., 8th ed., 729,  
without change in substance.]

§ 30. Administration of oaths by clerks and special agents.—The superintendent of public works may designate two clerks in the office of the superintendent in the city of Albany, one clerk in the office of each assistant superintendent in the three divisions of the canals, and one or more special agents in the department of public works, each of which upon filing his signature with the comptroller of the state, and his oath of office with the clerk of the county in which he resides, may administer oaths and take acknowledgments in any county of the state, in matters pertaining to canal business only, in which oaths and acknowledgments may be required to be taken, with the like force and effect as though taken before a notary public in the county where administered, but without fee or compensation therefor.

[L. 1879, ch. 331, as amended by  
L. 1885, ch. 92; R. S., 8th ed., 728,  
without change in substance, except that the power to take  
acknowledgments is new.]

§ 31. Exemption of canal officers from arrest in civil actions.—Neither the superintendent of public works nor any assistant superintendent or deputy, superintendent of repairs, lock-keeper or other public officer employed upon or in charge of the canals, shall be liable to arrest or to be held to bail in any civil action for any act done or omitted to be done by him in the exercise of his official duties, nor be subject to military duty while actually engaged in their respective employments upon the canals, while the same are navigable.

[R. S., pt. I, ch. IX, tit. 9, §§ 43, 187; R. S., 8th ed., 721,  
without change in substance.]

§ 32. Ineligibility to appointment on the canals.—No person owning any hydraulic works dependent upon the canals for their supply of water or employed in or connected with any such works, or engaged in transporting property upon the canals, or owning or interested in boats navigating the same, shall be employed as a superintendent, lock-keeper, or otherwise upon the canals.

[R. S., pt. I, ch. IX, tit. 9, § 185; R. S., 8th ed., 777,  
without change in substance.]

§ 33. Canal officers not to be interested in boats, contracts or hydraulic works.—No public officer or appointee connected with the care or management of the canals shall be interested in any hydraulic works dependent upon the canals for a supply of water, or in any line of boats regularly navigating the canals, or either directly or indirectly in any contract on the canals as a contractor, surety, or otherwise, in his own name or in the name of any other person, or either directly or indirectly derive any benefit from the ordinary or extraordinary expenditures upon the canals, beyond his established compensation; or if any such officer or appointee shall, at any time, while holding such office or appointment, be or become so interested, or derive any such benefit, he shall forfeit his office or appointment, and be discharged therefrom, and such contract shall be void.

[R. S., pt. I, ch. IX, tit. 9, § 186; as amended by L. 1843, ch. 181; R. S., 8th ed., 777, without change in substance.]

§ 34. Delivery of property upon discharge of employes.—Every agent, collector, lock-keeper or superintendent employed upon any canal and occupying any house, office, building or land belonging thereto, who is discharged from his employment and the wife and family of every such person who dies in such employment, shall deliver to the superintendent of public works or to a person designated by him, the possession of the premises so occupied, and of all books, papers, matters or things belonging to the canals acquired by virtue of such employment, within seven days after a notice is served for that purpose by the superintendent or an assistant superintendent of public works. In case of a refusal or neglect to make such delivery, any justice of the peace in the county where such premises are situated, may, on application, issue his warrant, ordering any peace officer, with such assistance as may be necessary, to enter, in the day time, upon the premises so occupied and remove therefrom all persons found in possession thereof, and to take into his custody all books, papers, matters and things there found belonging to the canals, and deliver the same to the superintendent of public

works or to some person designated by him, and such officer shall execute such warrant accordingly.

[R. S., pt. I, ch. IX, tit. 9, §§ 183, 184; R. S., 8th ed., 777, without change in substance.]

§ 35. Canada thistles and other noxious weeds on the banks of canals to be cut.—The superintendent of public works shall cause all Canada thistles and other noxious weeds, growing upon the banks and sides of the canals, to the width owned by the State, to be cut down twice in each year, once between the fifteenth day of June and the first of July and again between the fifteenth day of August and the first of September. If such thistles or noxious weeds are not cut down, any person may cut the same between the first and fifteenth days of July and the first and fifteenth days of September of each year at the expense of the assistant superintendent having charge of the division upon which such thistles and noxious weeds are so cut, at the rate of one dollar per day for the time occupied in cutting.

[L. 1847, ch. 100, §§ 1, 2; R. S., 8th ed., 2415, without change in substance.]

§ 36. Commissioners of the canal fund to allow claims.--The commissioners of the canal fund may allow claims for moneys paid by the superintendent of public works or an assistant superintendent or an officer or person employed by them, or in the engineer department of the canals, in the care, management, superintendence and repair thereof, for judgments recovered against them or any of them, in any action instituted for any act done by them, pursuant to the provisions of this chapter, or for costs and expenses incurred in such action, or in an action instituted by them or either of them under such chapter. Before allowing a claim, the commissioners shall examine into the circumstances under which such costs and expenses were incurred, or judgments recovered, and shall allow such claim or such part thereof as they deem reasonable, if satisfied that the officer or person making the same has been subjected to such costs, expenses or judgments, while acting in good faith in the discharge of his

duty under a law of the state. The commissioners, in their discretion, may direct the attorney-general or employ other counsel to take all necessary steps to defend the interest of the state in actions and proceedings arising under the laws respecting the canals, or from the appraisement of damages thereon.

[R. S., pt. I, ch. IX, tit. 2, §§ 10-12; R. S., 8th ed., 565, without change in substance.]

§ 37. Claims for damages.—There shall be allowed and paid to every person sustaining damages from the canals or from their use or management, or resulting or arising from the neglect or conduct of any officer of the state having charge thereof, or resulting or arising from any accident, or other matter or thing connected with the canals, the amount of such damages to be ascertained and determined by the proper action or proceedings before the board of claims; but no judgment shall be awarded by such board for any such damages in any case unless the facts proved therein make out a case which would create a legal liability against the state, were the same established in evidence in a court of justice against an individual or corporation.

Neither the comptroller nor the commissioners of the canal fund shall pay any damages awarded, or the amount of any commutations agreed on for the appropriation of land or water, or for the erection of a farm bridge, until a satisfactory abstract of title and certificate of search as to incumbrances is furnished, showing the person demanding such damages or commutations to be legally entitled thereto, which abstract and search shall be filed in the office of the comptroller.

[L. 1854, ch. 332, § 5; R. S., 8th ed., 741,  
L. 1870, ch. 321, § 1; R. S., 8th ed., 736,  
without change in substance.]

§ 38. Electrical or other improved systems of towage.—The superintendent of public works may: (1) Designate or set aside such portions of the Erie canal as he deems expedient for experiments to test the efficiency, economy and practicability of devices offered for improving the present system of towage, by electrical or other means; (2) prescribe such regulations to govern the con-

duct of such experiments as he deems required to prevent damage to the canal or any appurtenance or interference with the traffic thereof; (3) authorize from time to time any person or corporation to construct, maintain and operate electric conductors for light, heat or power upon or along any canal on such terms and conditions not inconsistent with the public use of such canal as he approves; (4) in like manner contract for or permit the use of such light, heat or power upon any such canal, but not to create a charge against the state except against appropriations lawfully applicable thereto.

With the permission of the superintendent and subject to the regulations prescribed by him, and to his direction and control, any citizen of the state or corporation authorized to transact business in the same, presenting to such superintendent a device for improving such method of towage may erect, at his or its own expense upon the portion of a canal designated for that purpose and upon state lands, such temporary buildings or other structures, with necessary machinery, and raise and temporarily maintain such poles along such canal and string wires thereupon as are necessary to test the efficiency, economy and practicability of such device.

[L. 1893, ch. 499,  
without change of substance.]

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#### ARTICLE IV.

##### State Engineer ; Department of Canals.

Section 50. Powers and duties of state engineer.

51. Division and resident engineers and assistants.

52. Division engineers; general duties.

53. Division engineers; duties as to maps, surveys and plans.

54. Advances to division engineers

55. Accounts of division engineers.

56. Duties of resident engineers.

57. Assistant engineers.

58. Engineer's record of measurement.

Section 50. Powers and duties of state engineer.

The state engineer shall:

1. Have the general supervision of the engineer department of the canals and perform all duties in relation thereto required by the canal board or the superintendent of public works.

[L. 1848, ch. 72, § 3; R. S., 8th ed., 526,  
L. 1880, ch. 493, § 4; R. S., 8th ed., 729,  
without change in substance.]

2. Visit and carefully inspect all the canals at least once in each year and make additional visits and examinations of the whole or any part thereof, and communicate such information and suggestions in relation to the improvement and maintenance thereof to the canal board or the superintendent of public works as he deems the public interests to require.

[L. 1850, ch. 377, § 5; R. S., 8th ed., 722,  
without change in substance.]

3. Appoint and at pleasure remove the division, resident and assistant engineers and all other persons employed to assist them. But all such appointments other than division and resident engineers, shall be made only with the consent of the canal board.

[L. 1876, ch. 385, §§ 1, 2; R. S., 8th ed., 726,  
without change in substance.]

4. Prescribe and define the duties of the engineers so appointed and assign each division and resident engineer to a division of the canals.

[L. 1862, ch. 169, § 3; R. S., 8th ed., 725,  
without change in substance.]

5. When construction or improvement work upon any of the canals is ordered by the legislature or the canal board, make or cause to be made all surveys, maps, plans, specifications and estimates required by the canal board or the superintendent of public works, for the purpose of determining the proper location of the line of the canal, or any part thereof, or otherwise necessary,

preparatory to the commencement of such work. He shall transmit such surveys, maps, plans, specifications and estimates with his approval thereof to the superintendent of public works and the canal board and, if the same is adopted by such board, file the same in his office, and a copy thereof in the office of such superintendent. He shall also communicate to the canal board or such superintendent his opinion in writing as to the time when the public interests require such work commenced and the time when it should be completed, and also his opinion as to any maps, plans, profiles or estimates submitted to him by the superintendent preliminary to contracting for work.

[R. S., pt. 1, ch. 9, tit. 9, § 17; R. S., 8th ed., 717, L. 1848, ch. 72, § 10; R. S., 8th ed., 527, L. 1850, ch. 377, § 6; R. S., 8th ed., 722, L. 1880, ch. 99, § 1; R. S., 8th ed., 717, L. 1880, ch. 493, § 4; R. S., 8th ed., 729, without change in substance.]

6. Assign an engineer for service upon any portion of the canals undergoing repairs or upon any construction or improvement work, upon the requisition of the superintendent of public works.

[L. 1880, ch. 493, § 4; R. S., 8th ed., 729, without change in substance.]

7. Report annually to the legislature, on or before the first day of February, the number and compensation of the persons employed by him upon the canals during the preceding year; the number so employed upon each resident engineer's sub-division, the length and estimated cost of all work under construction, the amount done and remaining to be done under existing contracts for repairs in each subdivision and such other information and suggestions as, in his judgment, the public interests require.

[L. 1850, ch. 377, § 15; R. S., 8th ed., 724, without change in substance.]

§ 51. Division and resident engineers and assistants.— Each engineer and appointee mentioned in this section shall take and file with the secretary of state the constitutional oath of office. The divi-

sion and resident engineers, before entering on the duties of their offices, must execute an official undertaking in a sum not exceeding \$20,000, to be fixed by the comptroller. But one division engineer and one resident engineer shall be employed on each division of the canals.

The persons appointed to assist the division and resident engineers shall be classed as assistant engineers, levelers, rodmen and chainmen. The state engineer shall file with the comptroller a statement of all such appointments, containing the name of the appointee, the nature of his duties, the daily compensation to be paid him and the term of his employment. The comptroller shall publish quarterly in the state paper the names of all engineers so appointed.

The compensation and expenses of the engineers and appointees and all the expenses of the engineer department of the canals shall be paid out of the funds appropriated for the repair and maintenance of the canals, except the expenses of the state engineer's office and the expenses of persons engaged upon work of construction or improvement for which special appropriation is made.

[L. 1848, ch. 72, §§ 5, 7; R. S., 8th ed., 527,  
L. 1850, ch. 377, §12; R. S., 8th ed., 724,  
L. 1862, ch. 169, §§ 3, 4, 5, as amended by  
L. 1865 ch. 477; R. S., 8th ed., 725, 726,  
L. 1876, ch. 385, § 1, 7, 8, 10; R. S., 8th ed., 726, 727,  
without change in substance.]

§ 52. Division engineers; general duties.—Each division engineer shall frequently pass over and carefully inspect all of the canals embraced in the division under his charge, examine and, if necessary, revise all surveys, maps, profiles, measurements, plans, specifications and estimates made in reference thereto by any engineer employed upon such division; see that the engineers and overseers of work employed thereupon faithfully perform their duties, and make to the state engineer and to the superintendent of public works or the assistant superintendent in special charge of the division, and to the superintendents of repairs, such suggestions in relation to repairs and the plan

of making the same as will, in his judgment, most tend to the safe and economical navigation of the canals.

[L. 1850, ch. 377, § 7; R. S., 8th ed., 722,  
without change in substance.]

§ 53. Division engineers; duties as to maps, surveys and plans.— Each division engineer shall, under the direction of the state engineer, make or cause to be made all surveys, maps, plans, specifications and estimates necessary or required by the canal board or superintendent of public works, to determine the proper location of the line of the canals, or any portion thereof, upon his division, or preparatory to placing any work under contract for construction, and transmit a copy thereof to the state engineer, who shall, after a due inspection and revision, submit the same to the canal board, with his approval indorsed thereupon, and on obtaining the certificate of adoption of the canal board, he shall file the same in his office.

[L. 1850, ch. 377, § 8; R. S., 8th ed., 723,  
without change in substance.]

§ 54. Advances to division engineers.— If a division engineer has filed his official undertaking, he may draw on the comptroller for advances to meet the expenses of the engineer department upon his division. If such draft be countersigned by the state engineer, and a receipt for the amount thereof be filed with the comptroller, the comptroller shall pay the same by warrant on the treasurer in favor of such division engineer. But the advances unaccounted for to a division engineer shall, at no time, exceed \$5,000, and no money shall be drawn from the treasury to meet the expenses of the engineer department of the canals, other than those pertaining to the office of the state engineer in any other manner.

[L. 1837, ch. 451, §§ 1, 2; R. S., 8th ed., 779.

L. 1876, ch. 385, § 4; R. S., 8th ed., 727.

without change in substance. The former statute was  
superseded by the latter.]

§ 55. Accounts of division engineers.—Each division engineer shall quarterly, beginning on the first day of each fiscal year, render accounts of his disbursements, with sworn vouchers for the same, to the state engineer, who shall examine and, if found correct, approve them and forward them with such approval to the comptroller, who shall audit them. If any division engineer omits to render any such account, or his account rendered is not satisfactory, the comptroller shall notify the state engineer and the commissioners of the canal fund, and no further advances shall be made to such engineer until he satisfactorily explains to the state engineer and the commissioners of the canal fund his omission to render proper accounts.

The comptroller shall prepare such blank forms and publish such rules as may be required to facilitate the rendering of such accounts and to insure uniformity therein.

[L. 1876, ch. 385, § 5; R. S., 8th ed., 727,  
L. 1837, ch. 451, §§ 3, 4; R. S., 8th ed., 779, was superseded  
by the former act which is here re-enacted,  
without change of substance.]

§ 56. Duties of resident engineers.—The resident engineers shall, under the immediate direction of the division engineers, survey, lay out, measure and compute the quantities of all work ordered by the canal board or the superintendent of public works, to be surveyed for location, construction or other purposes; assist the division engineer, so far as necessary, in making maps, plans, specifications and estimates; see that the work done upon the several subdivisions is well and faithfully performed by the contractors, and in all respects strictly according to the terms of the contract, and on the completion of the same, accurately ascertain the quantity of the several items of work done and the amount at the contract prices, and present to the superintendent of public works or division engineer a final statement thereof in such form duly verified as shall be prescribed by the comptroller. Each resident engineer shall enter, or cause to be entered, in a book furnished for that purpose by the state engineer, all the field-notes and computations of the items of work done in the subdivision under his charge, which such recapitulations, diagrams and other

illustrations as may be necessary to render the same intelligible, with a statement of the total quantity of each item of work done, the amount thereof at the contract-price and the aggregate amount at contract prices of the work done by each contractor, which entry shall be in due form and properly certified by the several engineers making it, within three months from the time the final statement is prepared; and the books containing such entries, shall, within one hundred days after the completion of the work on each subdivision, be properly indexed and filed in the office of the state engineer.

Each resident engineer shall perform such other services as are from time to time required by the state engineer or the division engineer in charge of the subdivision on which he is located. In case of the absence or inability of any division engineer to act, the resident engineer shall discharge the duties of such division engineer so far as they relate to the subdivision assigned to him.

[L. 1850, ch. 377, § 10; R. S., 8th ed., 723,  
L. 1876, ch. 385, § 6; R. S., 8th ed., 726,  
consolidated without change of substance.]

§ 57. Assistant engineers.—The first assistant engineer, when directed by the resident or division engineer, shall lay out and accurately measure and compute the quantities of the several items of work done or to be done in constructing the public works within the limits assigned to them; see that the work is faithfully performed by the contractors and others connected therewith, and in all other respects aid and assist the resident engineers in the discharge of their duties, and perform such other services in the line of their duties as the resident or division engineer may require.

[L. 1850, ch. 377, § 11; R. S., 8th ed., 724,  
without change in substance.]

§ 58. Engineer's record of measurements.—Every engineer on whose certificate payments are made for any public work shall enter in a book to be kept for that purpose every measurement made by himself or his assistant, with such explanations in regard to the location of the material, if the same has not been

placed in the public work, as will enable his successor to identify and secure the material for the use of the state; and on leaving the public service, such book of measurements shall be deposited with the state engineer.

[L. 1847, ch. 278, § 4; R. S., 8th ed., 780,  
without change in substance.]

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## ARTICLE V.

### Appropriation of Lands and Water.

#### Section 70. Entry upon lands.

71. Permanent appropriation for repairs.
72. Temporary appropriation for repairs.
73. Owners of lands entitled to damages.
74. Damages resulting from the erection of dams or the temporary occupation of lands.
75. Removal of encroachments.
76. Agreements for the purchase of water privileges.
77. Supplying deficiencies of waters.
78. Awards, how distributed in cases of liens or incumbrances.

§ 70. Entry upon lands.—The superintendent of public works may enter on, take possession of and use any lands, structures and waters, the appropriation of which for the use of the canals and the works connected therewith, and for the execution and completion of any repairs or improvements directed by the canal board or legislature to be made, shall in his judgment be necessary. An accurate survey and map of all such lands shall be made by the state engineer and certified by him to be correct, and the superintendent of public works shall indorse thereon or annex thereto a certificate stating that the lands described therein have been appropriated for the use of the canals of the state, and such map, survey and certificate shall be filed in the office of the state engineer. The superintendent of public works shall thereupon serve upon the owner of any real property so appropriated a notice of the filing and the date of filing of

such map and survey, and specifically describing that portion of such real property belonging to such owner, which has been so appropriated, and from the time of such service, the entry upon and appropriation by the state of the real property described in such notice, for the uses and purposes of the canals, shall be deemed complete, and such notice shall be conclusive evidence of such entry and appropriation and of the quantity and boundaries of the lands appropriated.

The superintendent may cause duplicates of such notice with an affidavit of due service thereof on such owner, to be recorded in the books used for recording deeds in the office of the clerk of any county of the state where any of the property described therein may be situated, and the record of such notice and of such proof of service shall be evidence of the due service thereof.

[R. S., pt. I, ch. IX, tit. 9, § 16; R. S., 8th ed., 717,  
L. 1849, ch. 352, § 1; R. S., 8th ed., 735,  
L. 1884, ch. 336, § 1; R. S., 8th ed., 544,  
without change in substance.]

§ 71. Permanent appropriation for repairs.—Whenever in the judgment of the superintendent of public works any of the earth structures of the canals of the state should be raised, widened, strengthened or otherwise improved, he may enter upon and permanently appropriate to the use of the state so much of any lands adjacent to the canals as may be necessary to provide earth and gravel for such purposes.

Claims for damages by reason of any such appropriation may be adjusted and paid by the superintendent, if the amount thereof can be agreed upon with the owners of the lands appropriated, but such amount shall not be paid out of the treasury unless the canal board shall approve thereof.

[L. 1879, ch. 152; R. S., 8th ed., 728,  
without change in substance.]

§ 72. Temporary appropriation for repairs.—Whenever the navigation of any canal is interrupted or endangered, the superintendent of public works shall, without delay, repair the injury causing or threatening such interruption, and for that purpose he may, by him-

self or by his agents, enter upon and use any contiguous lands, and procure therefrom all such materials as in his judgment are necessary or proper to be used in making such repairs, and agree, subject to the approval of the canal board, with the owners of the property so appropriated upon the amount of damage to be paid him therefor.

[R. S., pt. 1, ch. IX, tit. 9, § 23; R. S., 8th ed., 718, without change in substance. The superintendent is given the further power of agreeing with the owners of such land upon the amount of damage to be paid, in accordance with the powers given in similar cases by the statutes, re-enacted in the two sections immediately following. The rest of § 23 is found in § 173 of the revision.]

§ 73. Owner of lands entitled to damages.—The title to all real property permanently appropriated for the use of the canals of the state shall be vested in the people of this state. The owners or persons interested in any real property so permanently appropriated shall be entitled to be allowed and paid the damages resulting or accruing to them in consequence of such appropriation, after deducting therefrom the benefits received by or resulting to them in consequence of the construction and maintenance of the canal for the use of which the appropriation is made.

[R. S., pt. 1, ch. IX, tit. 9, §§ 52, 53; R. S., 8th ed., 731, L. 1849, ch. 352, §§ 1, 2; R. S., 8th ed., 735, without change in substance.]

§ 74. Damages resulting from the erection of dams or the temporary occupation of lands.—The owner of lands overflowed by the erection of a dam by the superintendent of public works upon any river or stream connected with such public works, or of lands, waters or streams which such superintendent occupies for temporary purposes in the construction or improvement of any canal or other work connected therewith, or upon which the superintendent enters for the purpose of obtaining materials for the construction or improvement of such canal or other works, shall have allowed and paid to him such just and equitable damages as he sustains by reason of the erection of such dam, or such occupation

or entry upon such lands, waters or streams, and the superintendent of public works may agree with such owner on the amount of such damages subject to the approval of the canal board.

[L. 1830, ch. 293; R. S., 8th ed., 734,  
L. 1836, ch. 287; R. S., 8th ed., 735,  
without change in substance.]

§ 75. Removal of encroachments.—The superintendent of public works is authorized and required to cause to be removed from the lands taken by the state for canal purposes, except in the thickly built part of cities, all encroachments thereon, whether buildings, fences or other structures, except dry docks authorized by the canal commissioners or the superintendent, or manufactories, mills or warehouses doing business upon the canals, that such lands may be kept in the possession of the state for the purposes of canal navigation.

[L. 1865, ch. 727; R. S., 8th ed., 775,  
without change in substance.]

§ 76. Agreements for the purchase of water privileges.—Whenever it is necessary to secure to a canal an additional supply of water, the superintendent of public works may agree with the proprietor of any hydraulic privilege affected by the taking of any such additional supply as to the terms and conditions on which the same may be taken.

[R. S., pt. I, ch. IX, tit. 9, § 79; R. S., 8th ed., 746, .  
without change in substance.]

§ 77. Supplying deficiencies of waters.—Whenever the navigation of any canal is endangered by reason of a deficiency of water, the superintendent of public works shall, without delay, supply such deficiency. For that purpose, he shall resume the temporary use of all the surplus waters leased upon the level of the canal where such deficiency exists. If there be still a deficiency of water, he may enter upon and use all lands, streams and waters, which, in his judgment, may be necessary or proper to be used to procure a temporary supply of water for such

canals. The superintendent may agree with the owner of any property used for temporary purposes under this section, on the amount of damages sustained by him thereby, subject to the approval of the canal board, but no damages shall be allowed in any case for resuming the use of any leased surplus waters.

【L. 1833, ch. 196, §§ 1, 2; R. S., 8th ed., 769,  
without change in substance.】

§ 78. Awards, how distributed in cases of liens or encumbrances.—When damages are awarded for the appropriation of any lands or water to the use of a canal and it appears that there is any lien or incumbrance on the property so appropriated, the commissioners of the canal fund may deposit the amount awarded in any bank, in which monies belonging to such fund may be deposited, to the account of such award, to be paid and distributed to the persons entitled to the same as ordered by the Supreme Court on application of any such person.

【L. 1841, ch. 160, § 5; R. S., 8th ed., 740,  
without change in substance.】

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## ARTICLE VI.

### Surplus Water.

- Section 90. When adjacent owner may use surplus water.
91. Appraisal; failure to comply with conditions; resumption of surplus waters.
92. Preference in the use of surplus waters.
93. Preference on sale of surplus waters.
94. When surplus waters not to be leased.
95. Proceedings on sale of water.
96. Right of purchaser on partial resumption.
97. Erection of walls; prohibition of waste gates.
98. Discharge of water.
99. Discharge of surplus waters on Rome level.
100. Surplus waters on the Oswego canal.
101. Proceedings for non-payment of rent of surplus waters of Black Rock harbor.

§ 90. When adjacent owner may use surplus water.—If works, in which water power is lawfully used, adjacent to a river or creek across which a dam is constructed to raise a head of water for the use of a canal, may be benefited by the use of the surplus water, without prejudice to the canal, the owner of such works may use such surplus water for their benefit, if he:

1. Constructs under the direction of the superintendent a good and substantial race-way and gate in such dam to draw off as much of the surplus water as his works may require.

2. Gives such security to the people of the state, as the superintendent deems sufficient, to keep such gate and race-way in complete repair, so as to prevent any waste of water.

3. Applies to the canal board, within ninety days after such gate or race-way shall have been completed, to have the benefits accruing to him from the use of such dam or other erection ascertained.

4. Pays the sum at which such benefits are estimated in the treasury within ninety days after it is so ascertained.

**[R. S., pt. I, ch. IX, tit. 9, § 80; R. S., 8th ed., 746, without change in substance.]**

§ 91. Appraisal; failure to comply with conditions; resumption of surplus waters.—The canal board when so requested shall make a fair estimate of such benefits and a return thereof without delay to the state treasurer.

If such conditions are not fulfilled by the owner, the superintendent of public works shall close any race-way or gate constructed by such owner, and such owner shall not open the same, or any other in the same dam, unless on the performance of the conditions so imposed. The superintendent of public works may resume the privileges so granted, whenever in his judgment the surplus waters or a portion thereof shall become necessary for the use of the canals. Whenever such privileges are so resumed, the sum paid into the treasury therefor shall be refunded.

Nothing in this article shall deprive the owner of hydraulic privileges of any rights possessed by him prior to any grant from

the state under this article, unless his damages from the loss of such rights shall be paid.

[R. S., pt. I, ch. IX, tit. 9, §§ 81-84; R. S., 8th ed., 747, without change in substance, except that the canal board is here given the duty of estimating benefits which formerly belonged to the canal appraisers.]

Section 92. Preference in the use of surplus waters.—If any water or mill privilege, lawfully used, is injured by the diversion of water to the use of a canal, the owner thereof, with the consent of the superintendent of public works and on the terms and conditions specified in this article, shall have the first privilege of taking the surplus waters for the use of his works, from any works constructed for the purpose of such diversion or from the canal benefited thereby.

[R. S., pt. I, ch. IX, tit. 9, § 85; R. S., 8th ed., 747, without change in substance.]

§ 93. Preference on sale of surplus waters.—When the canal board shall order a sale of surplus waters to the use of which no person shall be first entitled, as the owner of works before such time legally used, according to the preceding provisions of this article, the owner of the land upon which the surplus waters shall flow, and the owner of lands adjoining any dam erected by the authorities in charge of the canals, by which surplus waters shall be created, shall be entitled to the first privilege of taking such waters subject to the provisions of this article, so far as the same may be applicable; and the superintendent shall have the same powers in relation to all such surplus waters as are given in this article, in respect to surplus waters, by which hydraulic privileges are benefited, but he need not close any raceway or gate, if he deems it inexpedient. On application by such owner for such privilege, the superintendent of public works may request the canal board to estimate the value thereof, and the board shall make such estimate and include therein the value of any use of such water which such owner may have previously had. Such owner shall pay the amount of such appraisal into the treasury within ninety days

after notice thereof. If such owner omits for three months after being notified by the superintendent to make such application or neglects to comply with any provision of this article the canal board shall order a sale of such surplus water.

[R. S., pt. I, ch. IX, tit. 9, §§ 86-89; R. S., 8th ed., 747, without change in substance.]

§ 94. When surplus waters not to be leased.—If, in the opinion of the canal board, a lease of surplus waters will not confer on the lessee the right or authority to use the same without the consent of the owner of the land over which such surplus waters flow, it shall not authorize the letting of the same, without evidence that such consent has been given to such use.

[R. S., pt. I, ch. IX, tit. 9, § 89; R. S., 8th ed., 748, without change in substance.]

§ 95. Proceedings on sale of water.—When a sale of surplus waters is directed by the canal board, the superintendent of public works shall sell and convey such surplus waters in the following manner:

1. Each privilege of using such water shall be sold separately at public auction to the person bidding the highest annual rent therefor.

2. The place of sale shall be in the vicinity of the place where the water may be most conveniently used.

3. A notice stating the time and place of the sale and the privilege to be sold, shall be published twice in each week for six successive weeks immediately preceding the sale, in the state paper, and once in each week for the same time in two newspapers published in the county where the water is to be sold, one of which shall be in the town, village or city, where the privilege is situated, if any newspaper is published therein.

4. A lease for such a term of years as may be directed by the canal board shall be executed by the superintendent in the name of the state to the purchaser, reserving the rent bid, and containing a covenant for its payment annually to the commissioners of the canal fund; a condition that if it remains unpaid for one year after it is due, the lease shall be forfeited to the

state; a reservation of the right wholly to resume the waters conveyed and the privileges granted, and to control and limit the use of such water and privileges, whenever, in the opinion of the canal board or of the legislature, the necessary supply of water for the use of any canal, or the safety of such canal or works connected therewith, may render such resumption, control or limitation necessary; and a provision, that where such resumption is made, or control or limitation imposed, no compensation or damages shall be allowed for any improvements or erections made in consequence of such lease; and a further reservation of the right of the state, without making any compensation to the purchaser, to wholly abandon or destroy the work by the construction of which such surplus waters were created, whenever in the opinion of the superintendent the occupation and use of such work may cease to be advantageous to the state.

5. A duplicate of such conveyance under the hand and seal of the purchaser shall be executed and delivered by him to the superintendent of public works; who shall, without delay, procure the same to be recorded in the clerk's office of the county in which the privilege sold is situated and transmitted to the commissioners of the canal fund.

6. All the expenses attending the execution of the conveyance and the recording thereof shall be paid by the purchaser.

[R. S., pt. I, ch. IX, tit. 9, § 90; R. S., 8th ed., 748, without change in substance, except that by the existing law the notice provided for in subdivision 3 of this section, was required to be published in each newspaper printed in the county. This is unnecessary, as a publication in two newspapers, one of which, published in the town, village or city where the privilege is situated, would reach all persons interested in such sale.]

§ 96. Right of purchase on partial resumption.— If there is a partial resumption only of the waters so sold, the purchaser may use the remaining water privileges for the remainder of his term on the payment of a reduced rent to be fixed by the canal board. If he refuses to accept the remaining privileges at the

reduced rent, they shall be sold by the superintendent of public works under the direction of the canal board.

[R. S., pt. I, ch. IX, tit. 9, § 92; R. S., 8th ed., 749, without change in substance.]

§ 97. Erection of walls; prohibition of waste gates.—Where waters are taken from any canal or work connected therewith for hydraulic purposes, the superintendent of public works shall construct a permanent wall or erection of stone laid in mortar and cemented, of sufficient thickness to insure the safety of the canal, not less than six inches lower than the top water line of the canal.

No waste gate, sluice, slide, water-gate or other passage shall be made in connection with any wall or erection over which water is to be drawn in such manner that the same can be opened, or that water can be drawn by, through or under the same, to the use of any mill or machinery, using water from the canal.

This section does not apply to Black Rock, the mouth of Tonawanda creek, the locks at Lockport or any place where such waters are taken from a dam across a stream used as a feeder or from a feeder not navigable.

[R. S., pt. I, ch. IX, tit. 9, §§ 93, 94; R. S., 8th ed., 750, without change in substance.]

§ 98. Discharge of water.—Every owner of any water privilege upon a canal shall discharge the waters owned by him at such place or places as the superintendent directs.

[R. S., pt. I, ch. IX, tit. 9, § 96; R. S., 8th ed., 750, without change in substance.]

§ 99. Discharge of surplus waters on Rome level.—The surplus waters in the western portion of the Rome level of the Erie canal shall at all times be discharged through the culverts of the locks at the western end of the level, so far as the capacity of such culverts permits, and in no case shall any such surplus waters be discharged into the channels of Limestone and Butternut creek.

except to guard against danger to the banks of the canal, in the discretion of the superintendent of public works.

[L. 1879, ch. 269, as amended by,  
L. 1884, ch. 294; R. S., 8th ed., 751,  
without change in substance.]

§ 100. Surplus waters on the Oswego canal.—The superintendent of public works may permit the surplus water flowing over any dam on the Oswego river, except the dam nearest the city of Oswego, to be used for hydraulic purposes, by the owners of the lands upon which such waters flow, under such regulations and restrictions as he may impose, and subject to be resumed partly or wholly, whenever he deems best, without any right of the person receiving such permission to claim any damage or compensation for such resumption. Such permission shall not be given to use any water on the level of the Oswego canal.

[L. 1839, ch. 316; R. S., 8th ed., 750,  
without change in substance.]

§ 101. Proceedings for non-payment of rent of surplus waters of Black Rock harbor.—Before declaring any lease for surplus waters of Black Rock harbor forfeited for non-payment of rent due, the comptroller shall give at least six months' notice in two newspapers published in the county of Erie, that the same will be forfeited, unless the rents due be paid, with the costs of such advertising. If such rents be not paid, the canal board may direct that any separate privilege of taking and using water included in such lease, the rent on which separate privilege has been regularly paid, and which is occupied and applied to any machinery, be separately exposed to sale, or it may estimate and appraise the value of such separate privilege, having reference to the terms of the original lease, and may sell such privilege to the person occupying the same at a fair appraisal, and may cause a lease therefor to be executed in the manner required in this article.

[L. 1884, ch. 294; R. S., 8th ed., 751,  
without change in substance.]

## ARTICLE VII.

## Highways and Bridges.

Section 110. Alteration of roads.

111. Farm and road bridges.

112. Commutation for bridges.

113. Private road in lieu of bridge.

114. Iron bridges.

115. Models and location of bridges.

116. Restriction on the construction of farm and road bridges.

117. Construction of bridges by municipal corporations.

118. Construction of lift, hoist or swing bridge by city.

§ 110. Alteration of roads.—If the superintendent of public works, or assistant superintendent having charge of the work, deems it necessary to discontinue or alter any part of a public road, because of its interference with the proper location or construction of any work on the canals, either of construction, repairs or improvement, he shall direct such discontinuance or alteration to be made, and file an accurate description of the part of such road so discontinued and laid out anew in the office of the town clerk of the town in which the same is situated; and from the time of filing such description, such road shall be so altered.

The passage of the part of such road so discontinued or altered shall not be obstructed until such superintendent or his assistant opens and works the part of such road so laid out anew, as to render the same passable. The written certificate of a justice of the peace of the county in which such road is situated that the part so laid out anew has been so opened and worked, shall be sufficient evidence thereof. Every alteration made by any engineer on any public road upon either of the canals before the first day of January, 1828, shall be deemed valid in law from the time of such alteration.

[R. S., pt. I, ch. IX, tit. 9, §§ 19-22; R. S., 8th ed., 717, without change in substance.]

§ 111. Farm and road bridges.—The superintendent of public works is authorized and required to construct and hereafter maintain, at the public expense, road and street bridges over the canals, in all places where such bridges were constructed prior to the 20th day of April, 1839, if, in his opinion, the public convenience requires that they should be continued, whether theretofore maintained at the expense of the state or of the towns, villages and cities where they are situate.

The superintendent is authorized to construct farm bridges over such canals when the same, in his opinion, are reasonably required, having reference to the accommodation of the owners of the land and a due regard to economy to the state and the convenience of navigation. But this provision does not abridge the power of the superintendent in relation to streets, roads and bridges as prescribed by law on the date above specified.

When a farm bridge is constructed in lieu of one theretofore maintained by the owner of the land and damages are claimed by such owner for the appropriation of lands or other injury done in the enlargement of the canals, the benefit derived by the owner by being relieved from the expense of maintaining the farm bridge over the canal shall be set off against any damage so claimed.

[L. 1839, ch. 207, §§ 1, 2, 3; R. S., 8th ed., 773,  
• without change in substance.]

§ 112. Commutation for bridges.—The superintendent of public works may commute with owners and claimants of bridges over any canal, by paying such owner or claimant such sum in lieu of a bridge as may be agreed on between the claimant and the superintendent. If, in the opinion of the superintendent, a bridge should not be rebuilt, and the amount to be so paid be not agreed upon, the bridge shall not be built, but the damages sustained by such owner by being deprived of such bridge, and which the state under all the circumstances ought of right to pay, shall be ascertained in the same manner as damages for the appropriation of real property for the use of the canals, and paid by the superintendent. If the damages be claimed for the deprivation of a bridge which the claimant had before constructed or maintained, the circumstance of his

being equitably bound to contribute proportionately towards the construction and maintenance of an enlarged bridge shall be taken into consideration and a proper amount on that account shall be set off against any damage to which the claimant might otherwise be entitled.

[L. 1839, ch. 207, §§ 4, 5; R. S., 8th ed., 773,  
without change in substance.]

§ 113. Private road in lieu of bridge.—If the superintendent of public works can not agree with the owner of a farm bridge over a canal, as to the amount of commutation, in any case where such superintendent is of opinion that the state should erect such bridge, and such superintendent determines that a private road through adjoining lands will sufficiently accommodate such owner and that the same can be laid out with economy to the state, he may apply to the commissioners of highways of the town to lay out a private road for the accommodation of the owner, in the manner prescribed by law for laying out private roads, and pay to the owner of the lands through which the same is laid out the damages assessed.

[L. 1840, ch. 372; R. S., 8th ed., 774,  
without change in substance.]

§ 114. Iron bridges.—When the construction of an iron bridge over a canal is ordered by the legislature or canal board, or required by the superintendent of public works, the state engineer shall prepare general specifications for the superstructure of such bridge and the superintendent of public works shall advertise for plans, detailed specifications and proposals for the work, and the plans and detailed specifications accompanying any such proposal shall be submitted to the state engineer for his approval. He shall submit the plan, if approved by him, to the canal board, with a copy of the proposals received. On obtaining the certificate of adoption by the canal board he shall file the plan so approved in his office and a copy thereof in the office of the superintendent of public works, who shall then award the contract.

[L. 1881, ch. 536, §§ 1, 2; R. S., 8th ed., 776,  
without change in substance.]

§ 115. Models and location of bridges.—No bridge shall be constructed across any canal without first obtaining for the model and location thereof the written consent of the superintendent of public works or of a superintendent of repairs upon that line of the canal which is intersected by the road or highway of which the bridge is to be a part.

Every person undertaking to construct or locate any such bridge without such consent and placing any materials for that purpose upon either bank of the canal or upon the bottom thereof, shall forfeit to the state the sum of fifty dollars, and the superintendent of public works or any assistant superintendent, superintendent of repairs or engineer may remove all such materials as soon as they are discovered, wholly without the banks of the canal.

[R. S., pt. I, ch. IX, tit. 9, §§ 175, 176; R. S., 8th ed., p. 772; without change of substance.]

§ 116. Restriction on the construction of farm and road bridges.—A person shall not be entitled to demand a farm bridge across a canal or feeder where the necessity or convenience of such bridge shall have arisen from the division or acquisition of property subsequent to the location of such canal or feeder. A street or road bridge shall not be constructed by the superintendent of public works over a canal or feeder, except upon such streets or roads as were laid out, worked or used previously to the construction of the canal or feeder by which such street or road was or is obstructed; and when bridges are constructed or reconstructed upon any such streets or roads, the cost to the state shall in no case be more than is required to preserve in a safe and substantial manner the continuity of such streets or roads so as not to unnecessarily impair their usefulness.

When a bridge of a more costly nature is desired by the local authorities of a city, town, or village within whose corporate limits a bridge is to be built or rebuilt, the superintendent of public works, on presentation to him by such local authorities of plans and specifications for such bridge, approved by the state engineer, shall estimate and determine the proportion of the cost, which, in order to preserve the continuity of such streets and

roads, the state ought equitably to pay, and file such estimate and determination in his office and a duplicate thereof in the office of the clerk of such city, town or village, and no more than such proportion of the cost shall be appropriated by the legislature for such purpose, and then only on condition that such city, town or village shall pay the remainder of such cost. If a private road or public highway is laid out by legal authority in such direction as to require the erection of a new bridge over a canal for the accommodation of the road, such bridge shall be so constructed and forever maintained at the expense of the town or city in which it shall be situated.

[R. S., pt. I, ch. IX, tit. 9, § 174; R. S., 8th ed., 772, L. 1854, ch. 332, §§ 6, 9; as amended by L. 1891, ch. 366; R. S., 8th ed., 741, without change in substance.]

§ 117. Construction of bridges by municipal corporations.—A town, village or city upon the line of any canal, at its own cost and expense, with the consent and under the direction of the superintendent of public works, may erect and maintain at any point within its limits, where a bridge is not maintained by the state, such bridge across such canal, of such kind, dimensions and materials, and with such approaches as such superintendent approves, at the proper cost and expense of such town, village or city, at any point where there is not now a bridge built and maintained by the state. If such bridge shall be a hoist, lift or swing-bridge, and requires the constant attendance of bridge tenders to manage and work it, the superintendent may appoint and remove such bridge tenders as he deems necessary, and the expenses and wages thereof shall be paid to the superintendent by such town or village when he may require it, to be paid by him to such bridge tenders, and all the cost of material, power or tools necessary for the tending of such bridge shall be paid for by such town or village on demand therefor by the superintendent.

[L. 1881, ch. 488, §§ 1, 2; R. S., 8th ed., 775, without change in substance.]

§ 118 Construction of lift, hoist or swing-bridge by city.—The common council of any city, may provide by ordinance, for the

erection of a lift, hoist or swing-bridge over a canal at any street in such city, and, if the superintendent of public works consents to such erection, in writing, filed with the clerk of such common council, may levy and assess the cost of the construction of such bridge on the property benefited thereby. Such bridge shall be built, operated and maintained under the supervision and control of such superintendent but at the expense of such city or of the property adjudged by the common council thereof to be so benefited.

[L. 1881, ch. 488, § 3; R. S., 8th ed., 776,  
without change in substance.]

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## ARTICLE .VIII.

### Contracts.

Section 130. Restrictions on power to contract.

131. Contracts required to be in writing.

132. Requisites of proposals.

133. Indemnity clause in contracts.

134. Security for performance of contract.

135. Security for payment of laborers.

136. Construction to be kept distinct from repairs.

137. Materials and tools for ordinary repairs.

138. When certificate of superintendent of public works  
required.

139. Regulations for the furnishing of implements and  
materials.

140. Proposals.

141. Inspection of materials and tools furnished.

142. Proceedings in case of neglect or refusal to perform  
contract.

143. Exemption of materials from execution.

144. Certain directions to be in writing.

145. Drafts of money by the superintendent for the pay-  
ment of contracts.

146. Verification of estimates and measurements before  
payment.

§ 130. Restrictions on power to contract.—No work shall be contracted for upon any of the canals, until the division engineers ascertain with all practicable accuracy, the quantity of embankment, excavation, masonry, the quantity and quality of all materials to be used, and all other items of work to be placed under contract, and a statement thereof, with the maps, plans and specifications, corresponding to those adopted by the canal board, and on file in the office of the state engineer, is publicly exhibited to every person proposing or desiring to make a proposal for such work. The quantities contained in such statement shall be used in determining the cost of the work, according to the different proposals received, and when the contracts for any such work are awarded, every such statement, with such maps, plans and specifications and all other papers relating to the work advertised and which are necessary to identify the plan and extent of the work embraced in such contracts, shall be filed in the office of the state engineer, with the certificate of the state, division or resident engineer, stating the time and place of their exhibition. No alteration shall be made in any such map, plan or specification or the plan of any work under contract during its progress, except with the consent and approval of the superintendent of public works and the division engineer, nor unless a description of such alteration and such approval be in writing and signed by the parties making the same, and a copy thereof, filed in the office of the state engineer. No change of plan which shall increase the expense of any such work or create any claim against the state for damage arising therefrom shall be made, unless a written statement, setting forth the objects of the change and the expense thereof is submitted to the canal board, and their assent thereto, at a meeting when the state engineer was present, is obtained.

[L. 1850, ch. 377, § 9; R. S., 8th ed., 723,  
without change in substance.]

§ 131. Contracts required to be in writing.—Every contract for the construction of a canal and for any repairs or improvements on the canals, directed by the legislature or canal board,

shall be in writing and executed in triplicate, one of which shall be retained by the superintendent of public works and one deposited with the comptroller, and shall not be entered into without public notice of the time and place of the receipt of sealed proposals for the work to be done thereunder, published for three weeks successively in the state paper, and in one or more of the newspapers of each county, in which such work or any part thereof is to be done.

Every contract entered into by the superintendent of public works, or any assistant superintendent or deputy, or superintendent of canal repairs or engineer in charge of repairs for the delivery of timber or lumber or the furnishing of other materials for the repairs of the canals, or to do or complete a specified job of work relating to such repairs and involving the performance of labor and the furnishing of materials, when not advertised to be let to the lowest bidder, shall be in writing, stating the time within which it is to be performed and executed, not exceeding one year, duly authenticated and filed in the office of the comptroller, before any money is paid thereon, and within fifteen days after its execution.

[R. S., pt. I, ch. IX, tit. 9, §§ 31-33; R. S., 8th ed., 719, L. 1859, ch. 495, § 2; R. S., 8th ed., 741; without change in substance.]

§ 132. Requisites of proposals.—Every proposal for a contract, for which written proposals are to be received shall be sealed, and shall be for a sum certain as to the price to be paid or received, and no proposition not thus definite and certain, or which contains any alternative condition or limitation as to such price, shall be received or acted upon.

If any person offers more than one proposal for the same contract, all his proposals therefor shall be rejected.

[R. S., pt. I, ch. IX, tit. 9, §§ 34, 35; R. S., 8th ed., 720, without change in substance.]

§ 133. Indemnity clause in contracts.—The canal board shall cause to be inserted in all contracts for work or repairs on the canals a clause requiring the contractor to pay all damages arising

to the state, or to any person by reason of the neglect, default or misconduct of such contractor in the performance of the contract.

[L. 1866, ch. 836, § 9; R. S., 8th ed., 743,  
without change in substance.]

§ 134. Security for performance of contract.—Every contractor entering into any written contract for construction, improvement, repair or maintenance of or upon a canal, or for the furnishing of materials, tools or labor therefor, shall give satisfactory security to the superintendent of public works for the faithful performance of such contract. If any such contractor shall fail or neglect or refuse to perform his contract, or to comply with the requirements of the superintendent of public works or the assistant superintendent or any engineer, superintendent of repairs or other officer having the supervision in charge thereof, made in conformity with such contract, the superintendent of public works may declare such contract abandoned, and such contractor shall be excluded from any interest in any further contract in relation to the same and all similar objects.

[R. S., pt. I, ch. IX, tit. 9, § 36; R. S., 8th ed., 720,  
L. 1847, ch. 278, § 7; R. S., 8th ed., 781,  
without change in substance.]

§ 135. Security for payment of laborers.—The superintendent of public works or assistant superintendent having charge, shall also require and take from the contractor, a bond with at least two good and sufficient sureties, conditioned that such contractor will well and truly pay in full, at least once in each month, all laborers employed by him on the work specified in such contract, which shall be duly acknowledged and filed in the office of the clerk of the county wherein such contract or work is to be performed and if partly in two or more counties, such bond or a certified copy thereof shall be filed in the clerk's office of each county.

Actions may be brought for a breach of such bond by any laborer not paid in accordance with its terms, and the commencement or maintenance of an action by one or more laborers thereon shall not be a bar to the commencement and maintenance of other actions thereon by other laborers. No action shall be maintained

against the sureties unless brought within thirty days after the completion of the labor the payment of which is secured by the bond.

[L. 1850, ch. 278; R. S., 8th ed., 774,  
without change in substance.]

§ 136. Construction to be kept distinct from repairs.—All work connected with the enlargement and improvement of any canal, done under contracts made by the superintendent of public works, shall be kept distinct, as far as practicable, from the ordinary repairs of the canal.

[L. 1847, ch. 278, § 13; R. S., 8th ed., 782,  
without change in substance.]

§ 137. Materials and tools for ordinary repairs.—When, in his opinion, the interests of the state will be promoted thereby, the superintendent of public works may direct the superintendent of canal repairs to purchase materials and tools for the ordinary repair of the canals without advertising for the same. He is not bound to accept proposals therefor unless he deems it for the interest of the state.

[L. 1849, ch. 363; R. S., 8th ed., 781,  
without change in substance.]

§ 138. When certificate of superintendent of public works required.—Except in case of a sudden break or breach in the canal during navigation, requiring immediate action before the superintendent of public works or assistant superintendent in charge can be consulted, no superintendent of canal repairs shall contract for the purchase or delivery of tools, implements, materials, boats or other matters or things to be used in the repairs of the canals, unless the superintendent of public works or such assistant superintendent make a certificate designating the number and quantities with the prices to be paid therefor. A superintendent of repairs violating any provision of this section or applying any money received on a detailed estimate by him to

any object, work or purpose, other than as specially mentioned or described in such estimate, shall be removed from office.

[L. 1866, ch. 836, § 3; R. S., 8th ed., 742,  
without change in substance.]

§ 139. Regulations for the furnishing of implements and materials.—Except as otherwise prescribed in this article, every canal superintendent shall, under such regulations as are prescribed by the canal board, procure all boats, wheelbarrows, tools, implements, lumber, stone and other materials requiring for the ordinary repairs of the canals, by giving notice for two weeks in two newspapers designated to publish the session laws in each county, through which his section of the canal passes, of the day and hour when sealed proposals will be received for the supply of the articles required. In addition to the requirements of this article, the canal board shall prescribe such rules in regard to the notice to be given, and the time and manner of receiving and opening proposals as will effectually secure the rights of the bidders and the interests of the state.

[L. 1847, ch. 278, § 5; R. S., 8th ed., 781.  
without change in substance.]

§ 140. Proposals.—Every person making a proposal to furnish any such materials or tools shall accompany it with an agreement, in such form substantially as the canal board prescribes, signed by some responsible person, guaranteeing that the person making the proposals, within ten days after the acceptance thereof by the superintendent of public works, will enter into a written contract with such superintendent and his successors in office, for the faithful performance of such proposals. If any person to whom such contract is awarded, neglects or refuses to enter into such contract within ten days, the superintendent of public works shall receive further proposals for furnishing such materials and tools as remain uncontracted for by reason of such neglect, and shall prosecute the persons liable on such agreement.

[L. 1847, ch. 278, § 6; R. S., 8th ed., 781,  
without change in substance.]

§ 141. Inspection of materials and tools furnished.— All materials and tools purchased and delivered or offered for delivery in pursuance of any such contract, shall be carefully and thoroughly examined and inspected by the superintendent of public works or assistant superintendent, or superintendent of canal repairs in charge of the work or other officer designated by the superintendent of public works, and the officer making such examination and inspection, shall immediately make a sworn report thereof to the canal board, stating the quantity, quality and amount or number of the materials or tools examined and received or rejected as being or not being in conformity with the contract, and the reason for the rejection of the portions thereof rejected, if any, the time when and the place where such examination was made, and the section or sections for which the accepted materials or tools were designed for use, specifying the quantity, number and amount by items of all materials and tools for each of such sections for repairs.

No payment shall be made for any materials or tools, except such as are accepted as being in conformity with the contract under which they were delivered, and of which acceptance the report herein required is made and filed. When such report is made by a superintendent of repairs or other officer designated by the superintendent of public works, or assistant superintendent in charge of that portion of the canals where such materials and tools were delivered and accepted, the superintendent, or such assistant superintendent, shall, before any such payment is made, make a sworn certificate upon, or appended to such report that such materials and tools were, in his judgment, necessary for use upon the section where delivered, or would become necessary within a period to be specified in such statement, and that the purchase thereof is, in his belief, in pursuance of a contract, specifying the contractor and stating the reasons why such examination was not made by himself in person.

[L. 1847, ch. 278, §§ 10, 12; R. S., 8th ed., 781;  
without change in substance.]

§ 142. Proceedings in case of neglect or refusal to perform contract.— If any such contractor fails, neglects or refuses to per-

form his contract or to comply with any requirement, the superintendent of public works may procure all such tools and materials to be furnished, therein provided for, as may be necessary for immediate use, and until such contract is relet, and such contractor and his sureties shall be liable for all damages which may result from such neglect or refusal, together with the necessary extra cost, over and above the contract price of the articles and tools so procured. All contracts shall contain a provision for the speedy and equitable adjustment of all questions that may arise relative to their performance.

**[L. 1847, ch. 278, §§ 8, 11; R. S., 8th ed., 781,  
without change in substance.]**

§ 143. Exemption of materials from execution.—All materials procured or partly procured under a contract with the superintendent of public works, shall be exempt from execution, but the superintendent shall pay the moneys due for such materials to any judgment creditor of the contractor under whose execution such materials might otherwise have been sold, on production to him of due proof that such execution would have so attached and such payments shall be valid payments on the contract.

**[R. S., pt. I, ch. IX, tit. 9, § 38; R. S., 8th ed., 720,  
without change in substance.]**

§ 144. Certain directions to be in writing.—All orders and directions given by any superintendent of repairs or engineer to a contractor shall be in writing.

**[L. 1859, ch. 495, § 8; R. S., 8th ed., 742,  
without change in substance.]**

§ 145. Drafts of money by the superintendent for the payment of contracts.—The superintendent of public works may draw on the comptroller for any sum to be paid to a contractor on his contract, and if a copy of the contract shall have been duly filed in the office of the comptroller, and a receipt of the contractor for such drafts filed in the same office, the comptroller shall draw a warrant on the treasury for the amount of such draft. The superintendent of public works shall not be allowed to have in his hands

at any one time more than \$30,000, and every sum advanced to or received by him shall be deemed to remain in his hands until its application shall have been properly accounted for to the comptroller.

[R. S., pt. I, ch. IX, tit. 9, §§ 39, 40; R. S., 8th ed., 720, without change in substance.]

§ 146. Verification of estimates and measurements before payment.—No money shall be advanced or paid to any canal contractor on his contract except on the sworn certificate of an engineer in such form as the canal board prescribes, that he has actually measured the work or material included in the certificate, and believes that the quantities therein stated do not exceed the amounts actually performed or delivered by the contractor. Such sworn certificate shall be given to the superintendent of public works and shall accompany the receipt of the contractor when presented to the comptroller for audit. The comptroller shall reject and refuse payment of every draft or certificate of the superintendent of public works or any other claim against the state, founded on the certificate or measurement of an engineer in the employment of the state, unless such estimate and measurement is sworn to and verified as prescribed in this section.

[L. 1847, ch. 278, §§ 1, 2, 3; R. S., 8th ed., 780, L. 1866, ch. 836, § 2; R. S., 8th ed., 742, without change in substance.]

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## ARTICLE IX.

### Navigation.

Section 160. Definitions of "float" and "master."

161. Statistics to be furnished.

162. Registry of canal boats.

163. Clearances and ownership.

164. Bills of lading.

165. Regulations with respect to clearances.

166. Copies of clearances.

- Section 167. Assignment of berths for loading or unloading.
168. Name of mortgaged canal boat not to be changed.
169. Speed and meeting of boat and preference in passing.
170. Passage of locks.
171. Prohibition of use of setting poles; knife on bow.
172. Obstruction of navigation.
173. Seizure of obstructions.
174. Unlawful conversion of personal property by boatmen.
175. Wharves and basins.
176. Prohibition against driving on tow-paths or faster than a walk over bridges.
177. Quantity of water to be taken into level; waste-weirs.
178. Regulations relating to the harbor at Whitehall.
179. Liability of boat for penalty; detention and sale thereof.
180. Actions for penalties.
181. Laws repealed.
182. When to take effect.

§ 160. Definitions of "float" and "master."—The term "float" in this article includes every boat, vessel, raft or floating thing navigated on the canals or moved thereupon, under the direction of some person having the charge thereof; and the term "master" includes every person having for the time the charge, control or direction of any such float.

[R. S., pt. I, ch. IX, tit. 9, § 190; R. S., 8th ed., 778, without change in substance.]

§ 161. Statistics to be furnished.—The master of any boat or float, shall, on the request of any person designated by the superintendent to procure the statistics required to be reported by him to the legislature, deliver to such person a true statement of the quality and description of the lading of such boat or float, specifying the place from which it departed and to which it is destined. Such master may

have such boat or float and its load weighed at some weigh-lock selected by the superintendent and duplicate reports of such weights shall be furnished to him on payment of such reasonable fee, to be fixed by the superintendent, as will reimburse the state for the actual expenses thereof, and the superintendent may at any time, require any such boat or float and its load to be so weighed. Any such master who refuses to comply with any provision of this section shall forfeit to the people of the state the sum of twenty-five dollars, to be collected by any person designated to collect such statistics, and paid to the state treasurer.

[L. 1883, ch. 244, § 2; R. S., 8th ed., 729,  
without change in substance.]

§ 162. Registry of canal boats.—The owner of every boat navigating the canals shall deliver to the officer or person designated by the superintendent of public works to receive the same when the first clearance of the boat is demanded, a certificate of registry containing the name of the owner, his residence, the name of the boat and of the place where it is owned, which shall be signed by the owner, if a resident of this state, if not, by the master of the boat as the owner thereof.

If the master of a boat of which the owner resides out of the state is changed after the delivery of such certificate, the new master shall sign and deliver a proper certificate of registry to the officer or person so designated. The officer or designated person receiving a certificate of registry, shall execute and deliver to the master of the boat an acknowledgment of the receipt thereof, and without delay transmit the certificate to the superintendent of public works.

The superintendent of public works shall make a registry of all boats navigating the canals, which shall be kept on file in his office and be open to public inspection during office hours. The name of a registered boat shall not be changed without the order of the superintendent of public works.

If a resident of the state produces to the superintendent of public works due proof of the transfer of a registered boat, and

delivers to him a new certificate of registry, he shall change the registry of the boat to correspond with the new certificate.

The superintendent of public works shall, from time to time, transmit to the several collectors of canal statistics a certified copy of the register of boats in his office and of the several changes made therein.

[R. S., pt. I. ch. IX, tit. 9, §§ 111, 112, 113, 114, 115, 116; R. S., 8th ed., 755,  
L. 1887, ch. 528; R. S., 8th ed., 2512,  
without change in substance.

By L. 1883, ch. 244; R. S., 8th ed., 729, the superintendent of public works is to designate some person to collect the statistics required by that act. The collector referred to in the present statute is the collector of tolls. This office was abolished by L. 1883, ch. 165; R. S., 8th ed., 765.]

§ 163. Clearances and ownership.—No clearance shall be granted to any boat, unless the officer or other person, of whom it is required, have evidence that it is duly registered; or if it be not registered, until the master thereof delivers to such officer or person a proper certificate of registry, or exhibits to him the receipt of some other authorized officer for such certificate.

Each boat shall have a separate clearance, and no part of the cargo shall be cleared to a place beyond that to which the boat is cleared.

No boat shall receive or be permitted to pass on any canal which has not the name thereof and of the place where it is owned, corresponding to its certificate of registry then in force, printed in a conspicuous and prominent part on the outside of the boat in letters of at least four inches in height.

For the purpose of conforming to the rules and regulations for the navigation and maintenance of the canals, the person named in the certificate of registry as the owner of a boat shall be deemed its owner, and every owner of a boat who changes its name from that stated in the certificate, without the order of the superintendent of public works, and every master who enters or reports a boat at any office by a different name than

that stated in the certificate, shall for every such offense forfeit to the state the sum of twenty-five dollars.

[R. S., pt. I, ch. IX, tit. 9, §§ 117, 118, 119, 120, 124; R. S., 8th ed., 756,  
without change in substance.]

§ 164. Bills of lading.—A bill of lading containing a just and true account of all property conveyed in any boat upon a canal, signed by the master of the boat and by the consignor of the property, and stating the names of the places upon the canal where any portion of the property was shipped, of the place for which it is intended to be cleared, the names, description and weight of all the articles of such property, or the number of such articles and the number of feet of each article if bought or sold by the foot, shall be exhibited by the master of the boat to any collector of canal statistics requiring the same and to any officer or person of whom a clearance is required, and to every officer or person designated by the superintendent of public works for that purpose, at a place where any portion of the cargo is unladen or any additional cargo received, or if there is no such officer or person at such place, to such officer or person whose office shall be next in order in the course of the voyage. If there be no such office at the place where any article is laden, nor at the place of their delivery, nor at any intermediate place, the master of the boat shall within ten days after the delivery of such articles exhibit the bill of lading thereof to such officer or designated person whose office shall be nearest to the place of such delivery, and every master omitting to exhibit such bill within such period, shall, for every offence, forfeit to the state the sum of twenty-five dollars.

Every officer or person receiving a bill of lading may require the master exhibiting it to verify it by his oath. No clearance of a boat or cargo shall be granted or issued by any officer or person except upon the production to him of a bill of lading as herein required.

[R. S., pt. I, ch. IX, tit. 9, § 121, as amended by L. 1859, ch. 16, and §§ 122, 123, 126; R. S., 8th ed., 756,  
without change in substance.]

§ 165. Regulations with respect to clearances.—No boat shall proceed beyond the place to which it is cleared, nor unload any of its cargo, before or after its arrival, at the place from which such articles are cleared, nor proceed beyond such place until the master thereof delivers the clearance of such boat or articles to the officer or person designated by the superintendent of public works to receive the same, at the place for which they are cleared, or if there be no such officer or person at such place, to the last officer or person designated for that purpose, whose office shall be passed by the boat in the order of its voyage, and receive a permit from such collector to proceed to the place to which it is cleared.

Every master omitting to deliver a clearance to the officer or person to whom it ought to be delivered shall forfeit to the state the sum of twenty-five dollars.

[R. S., pt. I, ch. IX, tit. 9, §§ 127, 128, 129, 130; R. S., 8th ed., 757,  
without change in substance.]

§ 166. Copies of clearances.—Every officer or person issuing a clearance or with whom a clearance is filed shall, when requested, give a certified copy thereof, with any additional cargo entered thereupon, and the several endorsements, if any, which certified copy shall have the same validity and effect as the original clearance of which it is a copy. Every such person or officer shall demand and receive for such certified copy, not exceeding two folios, six cents from the person requesting the same, and fifteen cents for all copies exceeding two folios, and shall account to the commissioners of the canal fund for all moneys which shall be so received, at such time and in such manner as the superintendent of public works shall direct.

[R. S., pt. I, ch. IX, tit. 9, §§ 131, 132; R. S., 8th ed., 758,  
without change in substance.]

§ 167. Assignment of berths for loading or unloading.—An officer or person designated by the superintendent of public works for that purpose, and if no such officer or person be present any canal superintendent or superintendent of repairs may assign

berths to all boats while loading or unloading at any landing place upon a canal and determine disputes concerning the same.

**[R. S., pt. I, ch. IX, tit. 9, § 151; R. S., 8th ed., 760, without change in substance.]**

§ 168. Name of mortgaged canal boat not to be changed.-- The superintendent of public works shall not grant permission to change the name or hailing place of any canal boat, steam tug, scow or other craft navigating the canals, on which there is an existing lien or mortgage filed in his office, unless it shall be necessary to make the name or hailing place conform to the United States custom house regulations, by reason of a change of name, after having been registered at the custom house; and any boat, steam tug, scow, or other craft found navigating the canals of this state, the registered name or hailing place of which shall have been changed without the written permission of the superintendent of public works, shall, upon due proof thereof, be subject to a penalty of not less than fifty dollars nor more than three hundred dollars.

**[L. 1864, ch. 412, § 8; R. S., 8th ed., 2511, without change in substance.]**

§ 169. Speed and meeting of boats and preference in passing.-- No float shall move in any canal faster than at the rate of four miles an hour without a permission in writing from the superintendent of public works; except that upon any of the enlarged canals, a boat may move at a rate of speed not exceeding six miles an hour, to be fixed by the canal board.

The master of a float meeting another float, shall turn to the right, so as to be wholly on the right side of the center of the canal.

The master of a float going from the navigable waters of the Hudson river, approaching any place in a canal less than thirty feet wide upon the surface, or which will not safely permit its passing another float approaching the same place, shall stop at such distance from such narrow place as may be convenient for the floats going towards such navigable waters to pass through such place, and there wait until such passage is effected.

When a boat used chiefly for the conveyance of persons overtakes any other float not used chiefly for that purpose, the master of the latter shall give to the former every practicable facility for passing, and if necessary, shall stop until the former has fully passed.

When any boat propelled or towed by steam, meets or overtakes a boat or float not so propelled or towed and not waiting its turn for lockage, the master of the latter shall turn out so as to allow the former to pass on the berme side of the canal.

Every master or boatman violating any provision of this section shall, for each offense, forfeit to the state the sum of ten dollars.

[R. S., pt. I, ch. IX, tit. 9, §§ 152, 153, 154, 155, 156; R. S., 8th ed., 761,  
L. 1861, ch. 124, §§ 1, 2; R. S., 8th ed., 764,  
without change in substance.]

§ 170. Passage of locks.—Every float within one hundred yards of a lock, if upon the same level that the water in the lock then is, shall be permitted to pass the lock before any other float not upon the same level. Questions as to which of two or more floats may first pass through a lock shall be determined by the lock-keeper, and the passage made in the manner and order directed by him.

The owner, master or navigator of any float, refusing to conform to any such determination of a lock-keeper, or who detains or unnecessarily hinders the passage of any float through a lock, in violation of any provision of this section, shall, for each offense, forfeit to the state the sum of twenty-five dollars.

[R. S., pt. I, ch. IX, tit. 9, §§ 157, 158, 159; R. S., 8th ed., 761,  
without change in substance.]

§ 171. Prohibition of use of setting poles; knife on bow.—No person navigating any canal shall use any setting pole or shaft, pointed with iron or other metal. No covered or decked boat shall navigate any canal without a knife or sharp metallic instrument so affixed upon the stem or bow of the boat as to cut apart any tow rope which might otherwise pass over such bow.

Every owner or master of a boat failing to comply with any provision of this section shall, for every such failure, forfeit to the state the sum of twenty-five dollars.

[R. S., pt. I, ch. IX, tit. 9, §§ 160, 161; R. S., 8th ed., 761, without change in substance.]

§ 172. Obstruction of navigation.—A person who obstructs the navigation of a canal by the improper mooring, management or conduct of a boat or floating thing, or by sinking a vessel, timber, stone, earth or other thing to the bottom thereof, or by placing any obstruction upon the towing path thereof, or on the bank opposite the towing path, shall forfeit to the state the sum of twenty-five dollars for every such obstruction.

[R. S., pt. I, ch. IX, tit. 9, §§ 163, 164; R. S., 8th ed., 762, without change in substance.]

§ 173. Seizure of obstructions.—The superintendent of public works, his assistants, deputy and every superintendent or agent employed upon the canals may seize all boats, rafts, logs or any floating or sunken thing found in a canal, or any article not under the care or charge of any person, found upon the tow-path thereof and sell the same at public auction after giving ten days' written notice of the sale, conspicuously posted at two public places nearest to the place where such boat, logs, floating or sunken thing or other article is found, unless before the time of sale the owner of the article appears and claims the same and pays the cost of seizure and expenses of removal.

The avails of such sale shall be accounted for by the officer making the same to the commissioners of the canal fund, who may, on the application of the owner and due proof of ownership, pay over such proceeds to him after deducting the forfeiture and all costs and reasonable charges thereon.

If the navigation of a canal is interrupted or endangered the superintendent of public works may cut up, destroy or remove any canal boat, vessel or other thing in or partly in the canal, and, if the same is in the canal without the fault of the owner, the damages sustained by him in consequence of such destruction shall be paid to him, and if the superintendent is unable to agree with

the owner as to the amount of such damages, they shall be ascertained and determined in the same manner as damages for the temporary appropriation of lands for the repairs of the canals.

[R. S., pt. I, ch. IX, tit. 9, § 23, as amended by  
L. 1870, ch. 122; R. S., 8th ed., 718,  
R. S., pt. I, ch. IX, tit. 9, §§ 165, 166, 167, 168; R. S., 8th  
ed., 762,  
without change in substance.]

§ 174. Unlawful conversion of personal property by boatmen.—  
If a boatman or any person on board of a boat upon any canal takes, without right, any rails, boards, planks, staves, firewood or fencing posts from the banks or vicinity of the canals, the master of the boat shall forfeit to the owner treble the value of the property taken, and possession on board the boat shall be presumptive evidence of the taking. A person or boatman violating any provision of this section shall forfeit twenty-five dollars to any person who will prosecute therefor.

[R. S., pt. I, ch. IX, tit. 9, §§ 169, 170; R. S., 8th ed., 762,  
L. 1830, ch. 117; R. S., 8th ed., 763,  
without change in substance.]

§ 175. Wharves and basins.—No person without the written permission of the superintendent of public works or an assistant superintendent in charge, shall construct any wharf, basin or watering place in any canal, or make or apply any device for the purpose of taking water from a canal. Every wharf, basin, watering place or device constructed with such permission shall be held during the pleasure of the superintendent of public works and be subject to his control.

Every person constructing any such wharf, basin, watering place or device without such permission, or neglecting or refusing to conform to the direction of the superintendent granting the permission shall for each offense forfeit to the state the sum of twenty-five dollars, and the superintendent of public works may remove or destroy the construction illegally made at the expense of the person making it.

[R. S., pt. I, ch. IX, tit. 9, §§ 177, 178; R. S., 8th ed., 772,  
without change in substance.]

§ 176. Prohibition against driving on tow-paths or faster than a walk over bridges.—A person, not engaged in towing a boat or other float upon or conveying articles unladen or to be laden from or to a canal, who leads, drives or rides any horse, ox, mule, ass or other cattle upon the towing path of a canal or upon the bank opposite to such towing path, within the blue line of the canal, shall forfeit to the state the sum of five dollars. This provision shall not apply to a person authorized by any canal superintendent or canal contractor to enter upon the towing path or banks opposite thereto for the purpose of examining or repairing the same. Whenever any canal or canal feeder is constructed through or upon any lands so as to render such lands inaccessible from a highway, except by the erection of a bridge over such canal or feeder, the owner or owners of such lands, on permission being obtained from the superintendent of public works, may use so much of the towing path or the banks opposite thereto, or the banks of any feeder as may be necessary to pass to and from such lands to a public highway, without damage to such banks or interference to navigation. Such use shall cease whenever the state or local authorities constructs suitable bridges over said canals and feeders, enabling such owners to pass to and from such lands to a public highway.

A person who leads, rides or drives any horse or mule faster than a walk over any bridge belonging to or under the control of the state, over any canal, canal feeder, stream or river thereof, or drives any cattle across any such bridge at a faster rate than a walk, or permits more than twenty-five cattle to be upon such bridge at any one time, shall forfeit to the state the sum of fifteen dollars, to be sued for by the superintendent of canal repairs, and when recovered to be accounted for by him to the commissioners of the canal fund.

[R. S., pt. I, ch. IX, tit. 9, § 181, as amended by  
L. 1891, ch. 346; R. S., 8th ed., 772,  
L. 1862, ch. 354; R. S., 8th ed., 775,  
without change in substance.]

§ 177. Quantity of water to be taken into level; waste-weirs.—No more water shall be taken into any level of any canal than shall be sufficient to supply such level during the days of the

greatest business, and to supply any other level of the canal or other public work of the state dependent upon such level for a supply of water.

Every waste-weir upon the same level as the canal shall be constructed as nearly as may be consistent with the safety and convenience of the canals, of the same height, but in all cases so as to leave a depth of at least four feet of water in the level; and at least one waste-gate shall be constructed as nearly opposite to the mouth of every feeder taken into the canal as the convenient discharge of the water will permit.

[R. S., pt. I, ch. IX, tit. 9, §§ 194, 195; R. S., 8th ed., 773, without change in substance.]

§ 178. Regulations relating to the harbor at Whitehall.—The inspector and measurer of lumber and of boats and their cargoes at Whitehall, in the county of Washington, shall regulate and station all vessels, boats, rafts and other craft in the harbor of Whitehall, within the corporate limits of the village of Whitehall, and from time to time remove such vessels, boats or other craft as may not be employed or detained in discharging or receiving cargoes or loading, to accommodate other vessels, boats or other craft to load or unload; prevent all vessels, boats or other craft from obstructing for an unreasonable time the entrance of boats, rafts or other craft into the Champlain canal at Whitehall, and determine how far and in what instances the masters and others having charge of such vessels, boats, rafts or other craft shall accommodate each other in their respective situations and locations in such harbor.

A master or other person, having charge or control of any vessel, boat or raft within such limits, who neglects or refuses to obey the lawful direction of such inspector, or a person who resists or opposes him in the execution of his duties shall, for every such offense, forfeit and pay to the people of the state the sum of twenty-five dollars.

[L. 1867, ch. 71, §§ 1, 2; R. S., 8th ed., 743, without change in substance.]

§ 179. Liability of boat for penalties; detention and sale thereof.—Every penalty and forfeiture prescribed by this article

against the owner, master, boatman, navigator or other person having charge of any float, when incurred, shall be chargeable on such float, and an action for the recovery thereof may be brought against any person in the possession or having charge thereof at the time when it is commenced; and any court or judicial officer issuing the process for the commencement of such an action, may, by a clause to be inserted therein, direct the officer executing the same to detain such boat or float and the furniture and horses belonging thereto until such action is determined, or until adequate security is given for the payment of any judgment recovered. If such security be given, or the defendant in the action prevail, such court or officer shall order the boat or other float and property detained to be released. If no such security be given, and a judgment be recovered for such penalty or forfeiture, and not immediately paid, an execution shall be issued under which the property so detained may be sold in like manner as if the judgment had been obtained against the owner thereof.

[R. S., pt. I. ch. IX. tit. 9, §§ 171, 172, 173; R. S., 8th ed., 763, without change in substance.]

§ 180. Actions for penalties.—All actions for penalties and forfeitures imposed in this chapter, or for damages, in behalf of the state, shall be prosecuted in the name of the people of this state, by such persons and in such manner as the commissioners of the canal fund, in their regulations, direct. All money recovered in such actions shall be accounted for and paid over to such commissioners.

The imposition or recovery of any such penalty or forfeiture shall not be a bar to the recovery of any damages resulting to the state or an individual, because of such violation.

[R. S., pt. I. ch. IX. tit. 9, §§ 188, 192; R. S., 8th ed., 763, without change in substance.]

§ 181. Laws repealed.—Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is repealed.

§ 182. When to take effect.—This chapter shall take effect on October 1, 1894.

## Schedule of Laws Repealed.

Revised Statutes.		Sections.
Part I.....	Chapter 9, title 2..	§§ 10, 11, 12.
Part I.....	Chapter 9, title 9..	All.
Laws of	Chapter	Sections.
1829.....	368.....	All.
1830.....	117.....	All.
1830.....	293.....	All.
1833.....	196.....	All.
1834.....	276.....	17.
1835.....	21.....	All.
1836.....	287.....	All.
1837.....	451.....	All.
1839.....	207.....	All.
1839.....	316.....	All.
1840.....	201.....	All.
1840.....	292.....	All.
1840.....	372.....	All.
1841.....	160.....	All.
1842.....	274.....	All.
1843.....	181.....	All.
1847.....	100.....	1, 2.
1847.....	278.....	All.
1848.....	72.....	All, except §§ 1, 2.
1849.....	352.....	All.
1849.....	363.....	All.
1850.....	278.....	All.
1850.....	377.....	All.
1851.....	57.....	All.
1852.....	246.....	All.
1853.....	52.....	All.
1854.....	332.....	All.
1855.....	535.....	All, except § 3.
1859.....	16.....	All.
1859.....	376.....	All.
1859.....	495.....	All.
1861.....	124.....	All.

Laws of	Chapter	Sections.
1862.....	169.....	All.
1862.....	354.....	All.
1862.....	415.....	All.
1863.....	194.....	All.
1864.....	412.....	8.
1865.....	477.....	All.
1865.....	727.....	All.
1866.....	657.....	All.
1866.....	836.....	All.
1867.....	71.....	All.
1867.....	752.....	All.
1870.....	55.....	All.
1870.....	222.....	All.
1870.....	321.....	All.
1870.....	576.....	All.
1870.....	655.....	All.
1870.....	656.....	All.
1871.....	868.....	All.
1871.....	911.....	All.
1872.....	550.....	All.
1873.....	480.....	All.
1874.....	172.....	All.
1876.....	385.....	All.
1876.....	387.....	All.
1876.....	388.....	All.
1877.....	85.....	All.
1877.....	366.....	All.
1877.....	371.....	All.
1879.....	152.....	All.
1879.....	269.....	All.
1879.....	331.....	All.
1880.....	99.....	All.
1880.....	161.....	All.
1880.....	493.....	All.
1881.....	27.....	All.
1881.....	488.....	All.
1881.....	536.....	All.

Laws of	Chapter	Sections.
1883.....	165.....	All.
1883.....	244.....	All.
1883.....	291.....	All.
1884.....	294.....	All.
1884.....	362.....	All.
1885.....	92.....	All.
1887.....	123.....	All.
1891.....	346.....	All.
1891.....	366.....	All.
1893.....	499.....	All.

# COMMISSIONERS' MEMORANDUM

EXPLANATORY OF

## T H E C A N A L L A W .

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The written law of the state relating to the canals is in a condition of almost hopeless confusion. This has arisen, in great measure, from the frequent enactment of statutes, partly or wholly inconsistent with preceding ones, without express repeal, thus frequently devolving, in the first instance, on the administrative officers of the state, and in the last resort on the courts, the difficult task of deciding, at the peril of the former, the status of the law and the rights and liabilities of the citizen thereunder.

Prior to 1830 the management of the canals was prescribed by fragmentary acts of the legislature, except the meagre provisions of the constitution of 1822. In that year the revisers endeavored to codify the existing law and practice, the result being part I. ch. IX, tit. 9 of the revised statutes, which originally consisted of 195 sections, of which six only have been expressly repealed. The other 189 remain on the statute book, although many have been repealed by implication and others have been modified in important particulars by subsequent legislation.

The constitution of 1846 effected some important changes in existing law and its adoption as the organic law has been followed from time to time by measures more or less radical in their nature, including L. 1870, ch. 55, abolishing the contracting board and L. 1883, chs. 69, 165 and 205, which respectively abolished the office of auditor of the canal department and transferred his powers and duties to the comptroller; the offices of collectors of tolls and weigh-masters and imposed their duties on such persons as should be designated by the superintendent of public works; and the canal appraisers and board of audit and established the board of claims. Two important constitutional amendments have

also been approved by the people, by one of which, that of 1876, the office of superintendent of public works was created, superseding that of canal commissioner, and by the other of which, that of 1882, tolls were abolished. Important legislation affecting the duties of the state engineer and his subordinates and their relation to the other officials charged with the superintendence and management of the canals will also be found in L. 1837, ch. 451; L. 1847, ch. 278; L. 1848, ch. 72; L. 1850, ch. 377; L. 1862, ch. 169; and L. 1876, ch. 385.

The result of all this legislative patchwork has been the present exceedingly unsatisfactory labyrinth of the statute law. The duties of the commissioners of the canal fund, of the canal board, of the comptroller, of the superintendent of public works and of the state engineer are involved in inextricable confusion. In practice, consequently, important rights and privileges depend on construction and not on the letter of the law.

The matter which is here revised occupies nearly a hundred pages of the last edition of the revised statutes. It has been the intention of the commissioners to introduce simplicity and lucidity with the slightest possible change from existing law. Apart from obsolete and superseded matter, the only changes of substance are believed to be as follows:

1. The limitation of expense of maps and field-notes to \$5,000 contained in the R. S., has been omitted, as work involving such an expenditure for that purpose could only be undertaken by legislative authority and the expense would be limited by the appropriation.

2. The power of the canal board to take evidence by a committee thereof is considerably extended by section 10, subdivision 5.

3. As the number of members of the canal board was reduced, by the substitution of one superintendent of public works for three canal commissioners, as members thereof, the number required to constitute a quorum for such board is correspondingly reduced from five to four by section 12.

4. Notices of sales of surplus waters are required to be published in two newspapers of the county (§ 95) except in every such paper, as at present.

# APPENDIX TO THE CANAL LAW

CONTAINING THE

## LAWS PROPOSED TO BE REPEALED THEREBY.

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(R. S., pt. I, ch. IX, tit. 2; R. S., 8th ed., 565.)

§ 10. The commissioners of the canal fund shall have power to allow all claims for monies paid by the canal commissioners, or any one of them, or by an engineer or agent in their employment, or by any superintendent or toll collector, for judgments recovered against them or either of them, in any suit instituted for any act done by them, under the canal laws of this state, or for costs and expenses incurred in any such suit, or in any suit instituted by them or either of them, under such laws.

§ 11. The commissioners of the canal fund, before they shall allow any such claim, shall examine into the circumstances under which such costs shall have been incurred, or judgments recovered; and shall allow such claim, or such part thereof as they shall deem to be reasonable, if they shall be satisfied that such commissioners, or other officers making such claims, have been subjected to such costs, expenses or judgments, while acting in good faith in the discharge of their duty, under any law of this state.

§ 12. The commissioners of the canal fund shall have power, in their discretion, to direct the attorney-general, or to employ other counsel, to take all necessary steps in defending the interest of the state, in all suits and proceedings before the supreme court, or any other court, which may arise under the laws respecting the canals, or from the appraisement of damages thereon.

【The remainder of this title is to be repealed by the proposed State Finance Law.

§§ 10-12 are re-enacted in § 36 of the revision, without change in substance.】

(R. S., pt. I, ch. IX, tit. 9; R. S., 8th ed., 691.)

Section 1. The navigable communications heretofore constructed and now in the progress of construction, by the state, shall be known and designated as follows:

1. The navigable communication connecting the waters of Lake Erie with those of the Hudson river, and all the side cuts, feeders

(R. S., pt. I, ch. IX, tit. 9; R. S., 8th ed., 691.)

and other works belonging to the state connected therewith, by the name of the "Erie canal."

2. That connecting the waters of Lake Champlain with those of the Hudson, and the works belonging thereto, by the name of the "Champlain canal."

3. That commencing at Geneva, and terminating near Montezuma, and connecting the waters of the Seneca lake with the Erie canal, and the works belonging thereto, by the name of the "Cayuga and Seneca canals."

4. That commencing at Syracuse, and terminating at Oswego, by the name of "Oswego canal."

**[Re-enacted in § 2 of the revision without change in substance.]**

§ 2. The Erie and Champlain canals are hereby declared to be completed, and all the powers and authority heretofore given by law to the canal commissioners, in relation to the construction of those canals, shall be deemed to have been executed.

§ 3. Whenever any canal now in process of construction, or that shall hereafter be constructed, shall be completed, the canal board shall, by an order, declare the fact of such completion, and from that time, all the powers and authority of the canal commissioners, in relation to the construction of such canal, shall cease.

**[Sections 2 and 3 are omitted as obsolete.]**

§ 4. A complete manuscript map and field notes, of every canal that now is or hereafter shall be completed, and of all the lands belonging to the state adjacent thereto or connected therewith, shall be made, on which the boundaries of every parcel of such lands, to which the state shall have a separate title, shall be designated, and the names of the former owners and the date of each title be entered. The expense thereof shall be paid out of the canal fund. If the canal commissioners, on examination of the premises, be satisfied that the cost and expense of making such map, field notes and survey will exceed the sum of five thousand dollars, no such map and field notes shall be compiled.

§ 5. Every such map shall be compiled by the canal commissioners, who shall, for the purpose, cause all necessary surveys to be made; when prepared, it shall be submitted to the canal board for its approbation; and when so approved, shall be signed by the canal commissioners, be certified by them as correct, and be filed in the office of the comptroller.

**[Sections 4, 5 are re-enacted in § 4 of the revision without change in substance.]**

§ 6. A copy of each map so filed, together with the field books and notes of such survey, or of such part thereof as the canal board

(R. S., pt. I, ch. IX, tit. 9; R. S., 8th ed., 693.)

shall direct, shall be transmitted by the comptroller to every county intersected by the canal to which the map shall relate, and shall be filed, in the clerk's office of such county.

§ 7. A transcript from the original map, or from a copy thereof, certified as correct, by the officer with whom such map or copy shall be filed, shall be received as presumptive evidence, in all judicial and legal proceedings.

【Sections 6, 7 are re-enacted in § 5 of the revision without change in substance.】

§ 8. The provisions of this title shall be construed to apply to every canal belonging to the state, of which the construction now is or hereafter shall be authorized by law.

【Omitted from the revision as obsolete.】

(R. S., pt. I, ch. IX, tit. 9; R. S., 8th ed., 716.)

§ 9. The general care and superintendence of the canals shall continue to be vested in the board of canal commissioners; so many of whom, not exceeding two, as may be annually designated by the board, shall be acting commissioners.

【By article 5, section 3, of the constitution, the office of canal commissioners is abolished and the office of superintendent of public works created, who shall possess all the powers and duties formerly belonging to the canal commissioners.

The revision changes the wording of the statutes to correspond with this section of the constitution.

Section 9 is re-enacted in section 23, subdivision 1, of the revision.

Sections 10-14 of this title of the Revised Statutes were superseded by constitution, article 5, section 3, and were omitted from the 8th ed. of the Revised Statutes.】

§ 15. The board may employ such and so many agents, engineers, draftsmen, surveyors and other persons, as they may judge necessary, to enable them to discharge their duties as commissioners, and shall pay such compensation as they shall judge reasonable, to each person so employed.

§ 16. In the construction of every canal of which the construction is or shall be authorized by law, the canal commissioners shall have power, and it shall be their duty, to make all such canals, feeders, locks, dams, aqueducts, and other works, as they shall deem the proper construction of such canal to require; and they shall enter on, and take possession of, and use, all lands,

(R. S., pt. I, ch. IX, tit. 9; R. S., 8th ed., 717.)

streams and waters, the appropriation of which, for the use of such canals and works, shall, in their judgment, be necessary.

【Sections 15, 16 are re-enacted in section 23 of the revision, without change in substance.】

§ 17. Whenever, in the opinion of the superintendent of public works, it shall become necessary or expedient to reconstruct any bridge on a change of plan, or make any repairs or improvements on any completed canal such as the opening of new feeders, or the construction of additional locks, dams, embankments, tunnels or aqueducts, and whenever requested so to do by the superintendent of public works it shall be the duty of the state engineer and surveyor to cause the necessary surveys and levels to be taken, and accurate drafts, plans, models or maps, as the case may require, of the contemplated work, together with an estimate in minute detail of the probable expense to be incurred, and to submit the same to the canal board for their approbation. (Thus amended by L. 1880, chap. 99.)

【The provisions of this section are all contained in section 50 of the revision, with no change in substance.】

§ 18. If such repairs or improvements shall be directed by the canal board or the legislature it shall be the duty of the superintendent of public works to proceed as soon as circumstances will permit to execute and complete the same, and for that purpose to take possession of and use all lands, waters or streams of which the occupation and use, in his judgment, may be necessary to enable him to discharge such duties. (Thus amended by L. 1880, chap. 99.)

【Re-enacted in section 70 of the revision, without change in substance.】

§ 19. Whenever for the purpose of constructing a canal, or making any extraordinary repairs or improvements, it shall be deemed necessary by the canal commissioner having charge of the work, to discontinue or alter any part of a public road, on account of its interference with the proper location or construction of such work, he shall make, or direct to be made, such discontinuance or alteration.

§ 20. It shall be his duty to draw up in writing and figures, a true description of all such parts of a public road as shall be so discontinued and new laid, and to file such description in the town clerk's office, of the town in which such parts may be situate, and from the time of such filing, such discontinuance and alterations shall be valid in law.

(R. S., pt. I, ch. IX, tit. 9; R. S., 8th ed., 718.)

§ 21. The canal commissioners shall not, however, obstruct the passage of any part of a public road, so discontinued or altered, until they shall have opened and worked, so as to render passable such part of such road as shall have been new laid by their engineer; and the certificate in writing of any justice of the peace in the county where such road shall be situated, that the part so new laid has been so opened and worked, shall be their sufficient justification.

§ 22. Every alteration heretofore made by any engineer, in any public road on either of the canals, shall, from the time of such alteration be deemed valid in law.

[Sections 19-22 are combined and re-enacted in section 110 of the revision, without change in substance.]

§ 23. Whenever the navigation of any of the canals shall be interrupted or endangered it shall be the duty of the commissioners, without delay, to repair the injury causing or threatening such interruption, and for that purpose, they shall have power, by themselves or their agents, to enter upon and use any contiguous lands, and to procure therefrom all such materials as in their judgment may be necessary or proper to be used in making such repairs. And whenever the navigation of any of the canals shall be interrupted or endangered, any commissioner or superintendent may, if in his judgment it is necessary or proper so to do, cut up, destroy or remove any canal boat, vessel or other thing in or partly in the canal, and the damages in consequence thereof shall be assessed in the manner provided by chapter two hundred and eighty-seven of the laws of eighteen hundred and thirty-six. (Thus amended by L. 1870, chap. 222.)

[The first sentence in this section is re-enacted in section 72 of the revision, and the last sentence in section 173, without change in substance.]

§ 24. It shall be the duty of the canal commissioners to keep in complete repair, all toll-houses, weighing-scales, offices and other edifices, already built or purchased, for the use of the canals; and at such times and places as the canal board may direct, to erect such further toll-houses, weighing-scales, offices and other edifices, and purchase such ground for the convenience thereof, as may be deemed necessary for the profitable use of the canals.

[Partly re-enacted in section 23, subdivision 11 of the revision.]

§ 25. They shall, from time to time, make such rules and regulations, not inconsistent with the laws of the state, in respect to the size and structure of boats, rafts, and other floats, on the

(R. S., pt. I, ch. IX, tit. 9; R. S., 8th ed., 718.)

waters of the canals, and the weighing and inspecting of boats and their lading, and in respect to all matters connected with the navigation thereof, and impose such forfeitures of money, for the breach of such rules and regulations, as they may judge reasonable; but no forfeiture so imposed, shall, for a single offense, exceed the sum of twenty-five dollars.

§ 26. They shall cause a sufficient number of copies of all such rules and regulations, including the forfeitures for the breach thereof, to be printed, and shall distribute the same to the superintendents of repairs, the collectors of tolls, and lock-keepers to be kept in their respective offices for public inspection.

§ 27. All rules, regulations and forfeitures, established by them in relation to the management and navigation of the canals, shall be filed in the office of the comptroller, and a copy thereof, certified by the comptroller, under his hand and the seal of his office, shall be received in all courts of law, as due proof that such rules, regulations and forfeitures were by them established.

**[Sections 25-27 are combined and re-enacted in section 23 of the revision, without change in substance, except that the last clause of section 27, relating to the certified copy of rules and regulations is contained in section 933 of the Code of Civil Procedure, and is therefore repealed without re-enactment.]**

§ 28. The board shall, from time to time, assign to each acting commissioner, in special charge, the line or portion of the line, of one or more of the canals.

§ 29. It shall be the duty of each acting commissioner:

1. To examine frequently and carefully into the state of the canals and works committed to his charge.

2. To direct and cause to be made, such ordinary repairs, as he shall perceive to be necessary.

3. To superintend and cause to be made, such extraordinary repairs or improvements, as shall be ordered.

4. To make, by himself or a superintendent of repairs, all necessary contracts for the supply of materials and the performance of labor

5. To inquire into the official conduct of all superintendents of repairs, collectors of tolls, lock-keepers and other subordinate agents, and to receive and hear all complaints that may be preferred against them.

And generally to enforce the faithful execution, by all persons concerned, of the provisions of this title.

**[Sections 28-29 are omitted as obsolete. The duties and powers belonging to canal commissioners were bestowed upon the super-**

(R. S., pt. I, ch. IX, tit. 9; R. S., 8th ed., 719.)

intendent of public works, by Constitution, article V, section 3, and are enumerated in section 23 of the revision..】

§ 30. It shall be the duty of each acting commissioner to take duplicate receipts of all monies advanced or paid by him.

【Section 30 is re-enacted in section 24 of the revision, without change in substance.】

§ 31. All contracts for the construction of a canal, and for the making of any repairs or improvements in the canals, directed by the legislature, or canal board, shall be made in writing, and of each contract, three copies shall be executed by the parties.

§ 32. One of such copies shall be retained by the board of canal commissioners, or the acting commissioner having the charge of such repairs or improvements; another shall be deposited with the comptroller.

§ 33. Public notice shall be given of the time and place, at which sealed proposals will be received for entering into contracts, under the thirty-first section, which notice shall be published for three weeks in succession in the state paper, and in one or more of the newspapers of each county, in which the work to be performed, or any part thereof, is to be made.

【Sections 31-33 are re-enacted in section 131 of the revision, without change in substance.】

§ 34. All proposals for contracts, for which sealed proposals are to be offered, shall be for a sum certain, as to the price to be paid or received; and no proposition which is not thus definite and certain, or which contains any alternative condition or limitation, as to such price, shall be received or acted on.

§ 35. No more than one proposition shall be received from any one person for the same contract, and all the propositions of the person offering more than one, for the same object, shall be rejected.

【Sections 34, 35 are combined and re-enacted in section 132 of the revision, without change in substance.】

§ 36. Every person who shall enter into any contract for the supply of materials or the performance of labor, on any canal, shall give satisfactory security to the canal commissioners, for the faithful performance of his contract, according to its terms; and if any person having given such security, shall neglect or refuse to perform his contract, he shall be excluded from any interest in any future contract, in relation to the same object.

【Re-enacted in section 134 of the revision, without change in substance.】

(R. S., pt. I, ch. IX, tit. 9; R. S., 8th ed., 720.)

§ 37. No allowance over and above the contract price shall be made by the canal commissioners to any contractor, unless such extra allowance shall be directed by the canal board.

[Not re-enacted. See article 7, section 3 of the constitution. By that section no extra compensation shall be allowed to any contractor, unless from any unforeseen cause, the terms of any contract shall prove to be unjust or oppressive.]

§ 38. All materials procured, or partially procured, under a contract with the canal commissioners, shall be exempt from execution; but it shall be the duty of the canal commissioners, to pay the monies due for such materials to the judgment creditor of the contractor, under whose execution such materials might otherwise have been sold, upon his producing to them due proof that his execution would have so attached; and such payment shall be held a valid payment on the contract.

[Re-enacted in section 143 of the revision, without change in substance.]

§ 39. Either of the canal commissioners may draw upon the commissioners of the canal fund, for any sum to be paid to a contractor, upon his contract; and if a copy of such contract shall have been duly filed in the office of the comptroller, and a receipt of the contractor for such draft shall also be filed in the same office, it shall be the duty of the commissioners of the canal fund to pay the draft.

§ 40. No canal commissioner shall be allowed as such, to have in his hands at any one time, more than ten thousand dollars; and every sum advanced or received by him, shall be deemed to remain in his hands until its application shall have been properly accounted for to the comptroller.

[Sections 39, 40 are re-enacted in section 145 of the revision, without change in substance.]

§ 41. In all cases in which suits shall be brought by the canal commissioners, or under their direction, for the recovery of penalties or damages under the provision of this title, it shall be their duty to keep an accurate account of the recoveries, and of the costs and expenses, and after deducting such costs and expenses to pay over the residue of the sums received, to the commissioners of the canal fund, or account for the same with the comptroller.

§ 42. It shall be the duty of the canal commissioners to account and settle with the comptroller on or before the fifteenth day of January in each year, for all monies received by them, and each of them, from the commissioners of the canal fund, or belonging

(R. S., pt. I, ch. IX, tit. 9; R. S., 8th ed., 721.)

to that fund; and such settlement, specifying the sums respectively paid to all contractors, engineers, agents and servants of every description, employed on the canals, and to all persons having received a compensation for damages, and the names of such persons shall, without delay, be reported by the comptroller to the legislature.

[Sections 41, 42 are re-enacted in section 24 of the revision, without change in substance.]

§ 43. No acting commissioner, superintendent of repairs, collector or lock-keeper, on any canal, shall be held to bail, or taken by warrant, in any civil suit, for any act done, or omitted to be done by him, in the exercise of his official duties.

[Re-enacted in section 31 of the revision, without change in substance.]

§ 44. Within twenty days from the commencement of each annual session of the legislature, the canal commissioners shall make their report to the legislature; and in such report shall state the condition of the canals, and all the works and improvements connected therewith, the improvements and repairs made during the past year, or contemplated to be made, and the amount of moneys, during the same period, received and expended by them, and each of them, in the discharge of their duties, and shall recommend such measures, in relation to the canals, as they shall deem the public interest to require.

[Re-enacted in section 23 of the revision, without change in substance.]

(R. S., pt. I, ch. IX, tit. 9; R. S., 8th ed., 730.)

§ 45. There shall continue to be appointed two officers, by the name of canal appraisers, who being associated with any acting canal commissioner, shall be the appraisers of damages, in the cases hereinafter specified. The oath or affirmation of office, taken by the canal appraisers, shall be filed in the office of the secretary of state.

§ 46. When any lands, waters or streams, appropriated by the canal commissioners, to the use of the public, shall not be given or granted to the state, it shall be the duty of the appraisers to make a just and equitable estimate and appraisal of the damages and benefits, resulting to the persons interested in the premises so appropriated, from the construction of the work for the purpose of making which, such premises shall have been taken.

§ 47. It shall be their duty for that purpose, to meet at such times and places as they may deem necessary, and as nearly in

(R. S., pt. I, ch. IX, tit. 9; R. S., 8th ed., 731.)

the vicinity of the premises, as conveniently may be, and hear such proper and relevant evidence as shall be offered; and they are, for that purpose, empowered to administer oaths to witnesses.

§ 48. Every person interested in premises so appropriated, and every person who shall claim to have sustained damages by reason of the temporary appropriation of his lands or waters, or any injury caused by the canals of this state or the works connected therewith, if he intend to claim such damages, shall within one year after such premises, lands or waters have been taken permanently, appropriated or temporarily occupied, and within one year after jurisdiction shall be conferred upon the canal appraisers by the legislature to hear such other injury, file in the office of the canal appraisers a detailed statement of his claim in writing, signed by himself, his guardian or his agent, specifying in as particular a manner as the nature of the case will admit, the extent of his interest in the premises appropriated, and the nature and amount of damages, which claim shall be verified in the same manner as pleadings are now required by law to be verified. (Thus amended by L. 1866, chap. 836, sub. nom., § 84.)

§ 49. No claim for damages, for premises that shall have been appropriated to the use of a canal, at any time before this chapter shall be in force, shall be received by the appraisers, unless it shall be exhibited within one year after this chapter shall become a law; and the premises so appropriated shall be deemed the property of the state; and no claims other than those so exhibited, shall be paid without the special direction of the legislature.

§ 50. A regular entry of every determination and appraisement made by the appraisers, certified and signed by the appraisers making it, and containing an apt and sufficient description of the premises so appropriated, the names of the persons interested, and the sums estimated to each for benefits and damages, shall be made in a book kept for that purpose by the canal commissioners.

§ 51. A transcript of every such entry, signed by the appraisers, shall be recorded in the clerk's office of each county in which the premises appropriated shall, in whole or in part, be situated. (Thus amended by L. 1855, chap. 535.)

§ 52. The fee-simple of all premises so appropriated, in relation to which such estimate and appraisement shall have been made and recorded, shall be vested in the people of this state.

§ 53. If the damages so estimated and appraised shall exceed the benefits, it shall be the duty of the canal commissioners to pay the amount of such excess of the damages to the persons appearing, by the determination of the appraisers, to be thereto entitled; but no such payment shall be made, where an appeal or writ of

(R. S., pt. I, ch. IX, tit. 9; R. S., 8th ed., 732.)

error shall be prosecuted by the canal commissioners, until a final decision on the appraisement shall have been had.

§ 54. Each appraiser, for each day's actual attendance in the discharge of the duties of his office, shall receive the sum of three dollars, to be paid out of the treasury and charged to the canal fund.

§ 55. Every person having exhibited a claim for damages to the appraisers, and the canal commissioners where they shall deem the interests of the state to require it, may enter an appeal from the decision of the appraisers to the supreme court, who shall proceed to reverse, affirm or modify the appraisement, as in their opinion justice shall require; but in no case shall they allow a larger sum for damages, than shall have been demanded by the party entitled thereto, in his claim exhibited to the appraisers.

§ 56. Every such appeal shall be made in writing, stating briefly the grounds on which the appeal is made; if made by the canal commissioners, one copy of the appeal shall be served on the canal appraisers and another on the party claiming damages, his guardian or agent, either personally or by leaving the same at its usual place of abode; if made by the party claiming damages, one copy of the appeal shall be served on the appraisers, or one of them, and another on the canal commissioners. In all cases the appeal must be made and the proper copies served within three months from the time that the decision appealed from shall have been made and entered.

§ 57. The appraisers shall make a return in writing to every appeal so served on them, and shall insert and state therein a copy of the claim for damages exhibited to them, the evidence produced or offered before them, and the grounds and reasons of their determination.

§ 58. When damages shall be claimed by the owner of any land which the land commissioners shall have occupied for temporary purposes, or on which they shall have entered for the purpose of obtaining materials for repairs, the acting commissioner on the line of the canal nearest to which the land shall be situate, or any engineer or superintendent of repairs authorized by him, may fix by agreement the amount of damages which such owner ought to receive.

§ 59. If an agreement can not be made, the owner shall select one discreet freeholder of the county in which the land is situate, having no interest, direct or indirect, in the damages claimed, and the canal commissioner, engineer or superintendent, another; and the two thus chosen shall select a third to act with them in appraising the damages so claimed.

(R. S., pt. I, ch. IX, tit. 9; R. S., 8th ed., 733.)

§ 60. If the owner shall refuse or neglect to appoint an appraiser, such canal commissioner, engineer or superintendent shall serve upon him a notice, stating the name of the appraiser appointed by himself, and requiring such owner to make a similar appointment within two days thereafter, and if within that time no such appointment shall be made and signified, such commissioner, engineer or superintendent shall apply to a judge of the county court of the county where the lands are situate, to appoint an appraiser in behalf of such owner.

§ 61. The judge to whom such application shall be made, upon due proof of the service of such notice, shall, in writing, appoint an appraiser in behalf of the owner, who shall have the same powers as if appointed by the owner himself.

§ 62. The two last preceding sections shall be construed as also prescribing the course to be pursued by the owner of the lands, where the refusal or neglect to appoint an appraiser, shall proceed from such canal commissioner, engineer or superintendent.

§ 63. The appraisers shall, before they enter on the duties of their trust, take the oath prescribed by the Constitution of this state, before any person authorized to administer oaths; they shall then proceed to enquire into and assess the damages so claimed, and their determination, or that of any two of them, as to the amount of damages that ought to be paid, shall be conclusive.

§ 64. The appraisers making such determination, shall make a certificate thereof, under their hands and seals, and the amount of damages thus certified, (the costs, when not payable by the canal commissioners being deducted), shall be paid by the canal commissioners to the person appearing by such certificate to be entitled thereto, within ten days after such certificate shall have been received by the canal commissioners, or as soon thereafter as they shall be in funds.

§ 65. Proof of such payment, or of the offer thereof, in case the party entitled thereto, shall decline to receive the same, shall forever discharge the canal commissioners and all persons employed by them, from all claims for entering upon and occupying such lands, and for taking and using the materials procured therefrom.

§ 66. If the amount of damages so certified shall, in any case, not exceed the sum offered for such damages by such acting canal commissioner, engineer or superintendent, before the appointment of the appraisers, then the costs of all the proceedings after such offer, shall be deducted by the canal commissioners from the amount of damages certified; but if such amount shall exceed such previous offer, then all such costs shall be paid by the commissioners, in addition to the damages certified.

(R. S., pt. I, ch. IX, tit. 9; R. S., 8th ed., 734.)

§ 67. Each of such appraisers shall be entitled for his services, to the sum of one dollar and fifty cents per day.

[Sections 45-67 are repealed and not re-enacted. Laws 1883, chapter 205, abolished the office of canal appraisers and created the board of claims, prescribing the powers and duties of such board. The sections repealed are, therefore, obsolete.]

(R. S., pt. 1, ch. IX, tit. 9; R. S., 8th ed., 737.)

§ 68. There shall continue to be a canal board, who shall possess the powers and discharge the duties, enumerated in this title, or which shall hereafter be by law enacted or declared.

[Repealed without re-enactment as unnecessary.]

§ 69. They shall have power to appoint so many superintendents of repairs, and collectors of tolls, on the canals, as they deem necessary, to supply all vacancies that may occur in those offices, to remove any so appointed when they judge such removal proper, and to determine the amount of compensation which they shall respectively receive; but no compensation exceeding one thousand dollars for any one year, shall be allowed to any superintendent.

[Section 69 is not re-enacted. The power to appoint the officers mentioned is given to the superintendent of public works in section 3 of the revision, pursuant to the constitutional requirement. Sections 70, 71 were superseded by the Constitution, article VII, section 3, and are not published in recent editions of the revised statutes]

§ 72. The canal board shall have power to remit, either absolutely or upon such conditions as they shall prescribe any forfeitures that may be incurred, by a violation of any of the provisions of this title, or of any of the rules and regulations established by themselves, or the canal commissioners.

§ 73. No such forfeiture shall, however, be remitted, unless on the petition, in writing, of the party liable thereto, supported by due proof of the facts, upon which the claim for a remission shall be founded, and every such petition, with the accompanying proof, and the order of the board thereon, shall be preserved and filed in office of the comptroller.

§ 74. Whenever the canal board shall have received from the canal commissioners, the plan of any extraordinary repairs or improvements on the canals, and an estimate of the expenses thereof, if such estimate shall not exceed the sum of thirty thousand dollars, they may direct such repairs or improvements to be made; but if the estimated expense shall exceed that sum, they

(R. S., pt. 1, ch. IX, tit. 9; R. S., 8th ed., 737.)

shall report the plan and estimate, together with their opinion thereon, to the legislature.

§ 75. Whenever, in the opinion of the board, any water may be spared from any state canal, or works connected therewith, without injury to the navigation or safety of such canal, and the persons entitled to the first privilege of taking such water, shall not avail themselves thereof, or there shall be no persons so entitled, the board may order a sale of such surplus water, for a term of years, in their discretion, to the person who shall bid the highest annual rent therefor.

[Sections 72-75 are re-enacted in section 10 of the revision, without change in substance.]

(R. S., pt. I, ch. IX, tit. 9; R. S., 8th ed., 746.)

§ 79. Whenever it shall be become necessary to secure to any state canal, an additional supply of water, the canal commissioners may agree with the proprietors of hydraulic privileges, affected by their proceedings, relative to the use of the water privileges to be created, and of the surplus water, in such manner as they shall deem most beneficial to the state.

[Re-enacted in section 76 of the revision, without change in substance.]

§ 80. Whenever the canal commissioners shall construct a dam across any river or creek, to raise a head of water for the use of a canal, by means whereof, any works adjacent to such river or creek, in which water power is employed, before such time legally used, may be benefited without prejudice to the canal, the owner of such works, for their benefit, shall be entitled to the use of the surplus water, upon his complying with the following conditions:

1. He shall construct, under the direction of the canal commissioners, a good and substantial race-way and gate in such dam, to draw off as much of the surplus water as his works may require.

2. He shall give such security to the people of this state, as the canal commissioners shall deem sufficient, to keep such gate and race-way in complete repair so as to prevent any waste of water.

3. He shall, within ninety days after such race-way and gate shall be completed, apply to the canal appraisers, and request them to ascertain the benefits accruing to him, from the use of such dam, or other erection.

(R. S., pt. I, ch. IX, tit. 9; R. S., 8th ed., 747.)

4. Within ninety days after such benefits shall have been so ascertained, he shall pay the sum at which they shall be estimated into the treasury.

[Re-enacted in section 90 of the revision, without change in substance.]

§ 81. It shall be the duty of the canal appraisers, when so required, to make a fair estimate of the benefits so accruing to such owner, and to make a return thereof, without delay, to the treasurer of the state.

§ 82. If the conditions, as above specified, shall not be fulfilled by such owner, it shall be the duty of the acting canal commissioner, to close any race-way or gate such owner may have constructed; nor shall the owner again open the same, or any other in the same dam, unless upon the performance of the conditions so imposed.

§ 83. The canal commissioners may resume the privileges so granted, whenever, in their judgment, the surplus water, or a portion thereof, shall become necessary for the use of the canal; but whenever such privileges shall be so resumed, the sum paid into the treasury therefor shall be refunded.

§ 84. Nothing in this article contained shall be construed to deprive the owner of hydraulic privileges, of any rights possessed by him, prior to any grant from the state under this article, unless his damages from the loss of such rights shall be duly assessed and paid.

[Sections 81-84 are re-enacted in section 91 of the revision, without change in substance, except that the duty formerly belonging to the canal appraisers is conferred upon the canal board.]

§ 85. In all cases where water or mill privileges, before legally used, have been or shall be injured by reason of the diversion of the water to the use of either of the canals, the person so injured shall be entitled to the first privilege of taking water for the use of their works, on the terms and conditions above specified, from any work constructed for the purpose of such diversion, or from the canal itself benefitted thereby, when there is a surplus of water, and with the consent of the canal commissioners.

[Re-enacted in section 92 of the revision, without change in substance.]

§ 86. Whenever the canal board shall order a sale of surplus waters, pursuant to the provisions of the seventy-fifth section of this title, to the use of which no person shall be first entitled, as the owner of works before such time legally used, according to

(R. S., pt. I, ch. IX, tit. 9; R. S., 8th ed., 748.)

the preceding eightieth section, the owners of land upon which such surplus water shall flow, and the owner of land adjoining any dam erected, by the canal commissioners, by which surplus water shall be created, shall be entitled to the first privilege of taking such waters, subject to the provisions of this article, so far as the same may be applicable; and the canal commissioners shall have the same powers in relation to all such surplus waters, as are herein given in respect to surplus water by which hydraulic privileges are benefitted.

§ 87. Whenever the owner of any land over which surplus water shall flow, or the owner of land adjoining any dam by which surplus water shall be created, entitled according to the last section, to the use of such water, shall apply for a lease of the same, the canal commissioners shall direct the canal appraisers to estimate the value of the use of such water; and the said appraisers shall include in such estimate, the value of any use of such water, which such owner may have had previous to obtaining a lease therefor; and within ninety days after such appraisal shall have been made, and notice thereof given to such owner, he shall pay the amount of the value of such previous use into the treasury.

§ 88. If any owner of land over which such surplus water shall flow, or if any owner of land adjoining any dam by which surplus water shall be created, shall omit for three months, after being notified by the acting canal commissioner to that effect, to apply for a lease of such water, or shall neglect to comply with any of the provisions of this article, the canal board shall order a sale of such surplus water.

[Sections 86-88 are re-enacted in section 93 of the revision, without change in substance.]

§ 89. But in cases where, in the opinion of the acting canal commissioner, it would be inexpedient to close any race-way or gate, it shall not be compulsory on him to do so; and where, in the opinion of the canal board, a lease of surplus waters, will not confer on the lessee, any right or authority to use the same without the consent of the owner of the land over which such surplus water shall flow, they shall not authorize the letting of the same without evidence that the consent of such owner has been given to such use.

[Re-enacted in sections 93-4 of the revision, without change in substance.]

§ 90. Whenever a sale of surplus water shall have been directed by the canal board, the acting canal commissioner within whose

(R. S., pt. I, ch. IX, tit. 9; R. S., 8th ed., 748.)

line such water shall fall, shall proceed to sell and convey such surplus water in the manner following:

1. Each privilege of using such water shall be sold separately, at public auction, to the person bidding the highest annual rent therefor.

2. The place of sale shall be in the vicinity of the place where the water may be most conveniently used.

3. A notice, stating the time and place of the sale, and describing the waters to be sold, shall be published twice in each week, for six weeks in succession, immediately preceding the sale, in the state paper, and once in each week for the same time, in each of the newspapers printed in the county where the water is to be sold.

4. A lease for such a term of years as shall have been directed by the canal board, shall be executed by the commissioners, in the name of the people of this state, to the purchaser, and in such conveyance, the rent bid by such purchaser, shall be reserved.

5. The conveyance shall contain a covenant, that the rent therein reserved, shall be paid annually to the commissioners of the canal fund, and a condition, that if such rent shall remain unpaid for one year after it shall become due, the grant or lease shall become forfeited to the state.

6. The conveyance shall also contain a reservation of the right, wholly to resume the water so conveyed, and the privileges thereby granted, and to control and limit the use of such water and privileges, whenever, in the opinion of the canal board, or of the legislature, the necessary supply of water for the use of any state canal, or the safety of such canal, or works connected therewith, shall render such resumption, control or limitation necessary; and a provision that where such resumption is made, or control or limitation imposed, no compensation or damages shall be allowed for any improvements or erections made in consequence of such grant or lease.

7. The conveyance shall contain a further reservation of the right of the state, without making any compensation to the purchaser, wholly to abandon or destroy the work, by the construction of which such surplus waters shall have been created, whenever, in the opinion of the canal commissioners, the occupation and use of such work shall cease to be advantageous to the state.

8 A duplicate of such conveyance, under the hand and seal of the purchaser, shall be executed and delivered by him to the acting canal commissioner, who shall, without delay, procure the same to be recorded in the clerk's office of the county in which

(R. S., pt. I, ch. IX, tit. 9; R. S., 8th ed., 749.)

the water sold shall be situated, and shall transmit it, when recorded, to the commissioners of the canal fund.

9. All the expenses attending the execution of the conveyances, and the recording thereof, shall be paid by the purchaser.

[Re-enacted in section 95 of the revision, without material change, except that the notice provided for in subdivision 3, is, in the revision, required to be published in two newspapers published in the county where the water is to be sold, one of which shall be in the town where the privilege is situated.]

§ 91. When the canal board shall be satisfied that any lease of surplus waters granted by the canal commissioners, or either of them, before the twenty-first day of April, one thousand eight hundred and twenty-eight, is invalid, or conveys no right to use **such waters**, and may expose the state to claims for remuneration, they may revoke and annul such lease, and may direct the repayment to such lessee, of any monies received on such lease, with interest from the time of such payment; which shall be paid accordingly, on the warrant of the comptroller, from the canal fund.

[Not re-enacted. The leases here referred to are not now in existence.]

§ 92. Where there shall be a partial resumption only of the waters so sold, the purchaser shall be entitled to the use of the remaining water privileges for the residue of his term, on the payment of such reduced rent as shall be fixed by the canal board; but if he shall refuse to accept thereof at the rent so reduced, the privileges so remaining shall be again sold by the canal commissioners, under the direction of the canal board.

[Re-enacted in section 96 of the revision, without change in substance.]

§ 93. At every place where waters are to be taken from any state canal, or work connected therewith, for hydraulic purposes, except at Black Rock, at the mouth of Tonnewanta creek, and at the locks at Lockport, and except where such waters are taken from a dam across a stream which is used as a feeder, or from a feeder not navigable, the canal commissioners shall construct a permanent wall or erection of stone laid in mortar, and cemented, of sufficient thickness to ensure the safety of the canal, and such wall shall not in any case be more than six inches lower than the top-water line of the canal.

§ 94. No waste-gate, sluice, slide, water-gate or other passage, shall be made in connection with any wall or erection over which

(R. S., pt. I, ch. IX, tit. 9; R. S., 8th ed., 750.)

water is to be drawn, in such manner that the same can be opened, or that water can be drawn by, through or under the same, to the use of any mill or machinery, using water from the canal, except at the four places above excepted.

[Sections 93, 94 are re-enacted in section 97 of the revision without change in substance.]

[Section 95 was repealed by L. 1886, ch. 593.]

§ 96. Every person now owning any water privilege, upon either of the canals, or hereafter purchasing any such privilege of the state, shall discharge the waters owned by him at such place or places, as the canal commissioners shall direct, whenever the navigation or safety of the canal, or any of its works, shall be benefitted by such direction.

[Section 96 is re-enacted in section 98 of the revision, without change in substance.]

§ 97. The canal commissioners, or the party aggrieved, may bring a writ of error from any decision of the supreme court hereafter to be made, touching any claim made against the state, for deprivation of any right, or pretended right, to the use of any water or water privileges, or fisheries, in consequence of the construction of any canal or feeder, now or hereafter to be made, whether the decision be made upon any case arising on a mandamus or otherwise; and although no pleadings were had or issue joined in the cause.

§ 98. On service of such writ of error it shall be the duty of the clerk of the supreme court, to make out a transcript of the record, or papers and documents, on which such decision was had, and to cause the same to be filed with the clerk of the court for the trial of impeachments and the correction of errors, in twenty days after service of the writ.

[Sections 97, 98 are repealed without re-enactment as practically obsolete. The code, and L. 1883, ch. 205, referring to the board of claims, provides for the correction of errors and bringing of appeals from decisions of the board of claims.]

(R. S., pt. I, ch. IX, tit. 9; R. S., 8th ed., 752.)

§ 99. Each superintendent of repairs, and every collector of tolls, before he shall enter on his official duties, shall execute and file in the office of the comptroller, a bond for the faithful execution of his trust, in such penalty and form as the canal board shall direct, and with such sureties as the comptroller shall approve.

(R. S., pt. I, ch. IX, tit. 9; R. S., 8th ed., 752.)

§ 100. It shall be the duty of each superintendent, under the direction of the canal commissioners, to keep in repair such sections of the canals and works connected therewith, as shall be committed to his charge; to make all necessary contracts for that purpose, and faithfully to expend all such monies as shall be placed in his hands, by the canal commissioners or the commissioners of the canal fund.

§ 101. Each superintendent shall be under the direction of the canal commissioners and especially of the acting commissioner, having charge of the line of the canal, on which such superintendent is employed.

§ 102. Each superintendent shall, as often as once in sixty days, render his account to the comptroller, who shall audit the same; and if any superintendent shall omit to render his account, or his account as rendered be not satisfactory, the comptroller shall notify the canal board and the commissioners of the canal fund thereof; and no further advances of money shall be made to such superintendent, but he shall be immediately removed from office.

§ 103. Before any superintendent's account for expenditures shall be presented to the comptroller, the canal commissioner having charge of that part of the canal on which such superintendent is employed, shall certify on such account, that he has examined the same; that the several disbursements specified therein, were made under his direction on the canal, or for repairs necessary to be made thereon; and that he believes such disbursements to be proper and reasonable, and to have been made, as charged.

[Sections 99-103 are re-enacted in section 26 of the revision, without change in substance.]

(R. S., pt. I, ch. IX, tit. 9; R. S., 8th ed., 755.)

§ 111. The owners of every boat navigating the canals, shall subscribe and deliver to the collector of whom the first clearance for such boat shall be demanded, a certificate, to be entitled, "a certificate of registry," containing the names of such owners, and their respective places of abode, and also the name of the boat, and of some place as that where it is owned; if the owners shall reside out of this state, the certificate of registry shall be signed and delivered by the master of the boat, as the owner thereof.

§ 112. If the master of a boat of which the owners reside out of the state, shall be changed after he shall have delivered such certificate, the new master shall sign and deliver a proper certificate of registry, to the collector of whom he shall first require a clearance.

(R. S., pt. I, ch. IX, tit. 9; R. S., 8th ed., 755.)

§ 113. Every collector receiving a certificate of registry, shall sign an acknowledgment of the receipt thereof, and deliver the same to the master or the boat; and shall without delay, transmit the certificate received, to the comptroller.

§ 114. The comptroller shall make a register of all boats navigating the canals, which shall be kept with the books and papers in his office relative to the canals, and be open to inspection during office hours. The name of no registered boat shall be changed, without the order of the comptroller.

§ 115. If any persons residing within this state, claiming to be the owners of a registered boat, by a transfer from its former owners, shall produce to the comptroller, due proof of such transfer, and shall deliver him a new certificate of registry signed by themselves, it shall be the duty of the comptroller to change the register of such boat, so as to correspond with such new certificate.

§ 116. The comptroller shall, from time to time, transmit to the several collectors, a certified copy of the register of boats in his office, and of the several changes made therein.

[Sections 111-116, are re-enacted in section 162 of the revision, without change in substance.

The "collectors," referred to in these sections, is the collector of tolls, but by L. 1883, ch. 165; R. S., 8th ed., p. 765, such office was abolished. In the revision the officer endowed with the duties contained in the above section is denominated the "collector of statistics."]

§ 117. No clearance shall be granted to any boat, unless the collector, of whom it is required, shall have evidence that such boat is duly registered; or if it be not registered, until the master thereof shall have delivered to such collector, a proper certificate of registry, or have exhibited to him, the receipt of some other collector, for such certificate.

§ 118. The persons specified in its certificate of registry, as the owners of a boat, shall be deemed in law the true owners thereof, for all purposes of enforcing the collection of tolls, and the execution of the rules and regulations for the navigation or maintenance of the canals.

§ 119. Every owner of a boat who shall change its name from that stated in its certificate of registry, then in force without the order of the comptroller, and every master who shall enter or report such boat, at any collector's office, by a different name than that so stated, shall, for every such offence, forfeit the sum of twenty-five dollars.

§ 120. No boat shall receive a clearance, or be permitted to pass on any canal, which shall not have the name thereof, and of

(R. S., pt. I, ch. IX, tit. 9; R. S., 8th ed., 756.)

the place where it is owned, corresponding with its certificate of registry then in force, painted in some conspicuous and permanent part of the outside of the boat, in letters of at least four inches in height.

[Sections 117-120, are re-enacted in section 163 of the revision, without change in substance.]

§ 121. Every master of a boat, conveying property on a canal, shall exhibit to the several collectors, hereafter mentioned, a just and true account, or bill of lading, of such property, signed by himself and by the consignor thereof, containing:

1. The name of each place on the canal where any portion of such property was shipped, and of the place for which it is intended to be cleared.

2. A statement of the names, description and weight of all the articles of such property on which toll is charged by the ton, of the number of articles on which toll is charged by the number, and of feet of each article on which toll is charged by the foot.

3. A specification of the weight or quantity of each article, where a different rate of toll is charged on different articles; on which toll is so computed.

4. No clearance of a boat and cargo shall be granted or issued by any collector of canal toll, except upon the production to him of a bill of lading containing the above particulars. (Thus amended by L. 1859, chap. 16.)

§ 122. Every such account or bill of lading shall be exhibited,

1. To every collector of whom a clearance shall be required.

2. To every collector whose office shall be the next in order, in the course of the voyage, to the place where a clearance shall have been given.

3. To every collector at a place where any portion of the cargo shall be unladen, or any additional cargo be received; or if there be no collector at such place, to the collector whose office shall be next in order in the course of the voyage.

4. To every other collector who shall demand such account, or bill of lading, to be exhibited.

§ 123. If there shall be no collector's office at the place where any articles shall be laden, nor at the place of their delivery, nor at any intermediate place, the master of the boat shall, within ten days after the delivery of such articles, exhibit the bill of lading thereof to the collector whose office shall be nearest to the place of such delivery, and shall pay to such collector the tolls due on such articles; and every master who shall omit to exhibit such bill,

(R. S., pt. I, ch. IX, tit. 9; R. S., 8th ed., 757.)

and to pay such tolls, within the period so limited, shall, for every offence, forfeit the sum of twenty-five dollars.

[Sections 124, 125 were repealed by L. 1886, ch. 593.]

§ 126. Every collector receiving a bill of lading, may require the master exhibiting it, to verify it by his oath, which such collector is authorized to administer.

[Sections 121-126 are re-enacted in section 164 of the revision, without change in substance.]

§ 127. Each boat navigating the canals shall have a separate clearance, and no part of the cargo of any boat shall be cleared to a place beyond that, to which the boat is cleared.

§ 128. No boat shall proceed beyond the place to which it shall be cleared, nor unlade any article of its cargo before, or after its arrival at the place for which such articles are cleared, nor proceed beyond such place, until the master thereof, shall have delivered the clearance of such boat or articles, to the collector, at the place for which they are cleared.

§ 129. If there be no collector at such place, the master shall deliver the clearance of the boat or articles, to the last collector whose office shall be passed by the boat in the order of its voyage, and shall receive a permit from such collector, to proceed to the place to which they are cleared.

§ 130. Every master who shall omit to deliver a clearance to the collector, to whom the same ought to be delivered, shall forfeit the sum of twenty-five dollars.

[Sections 127-130 are re-enacted in section 165 of the revision, without change in substance.]

§ 131. Every collector issuing any clearance, or in whose office any clearance is on file, shall, whenever requested, give a certified copy thereof, with the additional cargo entered thereon, and the several indorsements of other collectors.

§ 132. Such certified copy shall have the same validity and effect, as the original clearance, of which it is a copy; and every collector shall demand and receive for such certified copy, not exceeding two folios, from the person requesting the same, six cents, and twelve and a half cents for all copies exceeding two folios, and shall account to the commissioners of the canal fund, for all sums which shall be so received, at such time, and in such manner, as the comptroller shall direct.

[Sections 131, 132 are re-enacted in section 166 of the revision, without change in substance.]

(R. S., pt. I, ch. IX, tit. 9; R. S., 8th ed., 758.)

§ 133. The tonnage of all articles conveyed on either of the canals, on which toll may be charged by the ton, shall be ascertained and charged according to the real weight of such articles.

§ 134. Whenever a difference as to the amount of tolls to be paid, shall arise between a collector of tolls and the master of a boat, the collector shall detain the articles on which the tolls are charged, and the boat containing them, and shall weigh, count, or measure, the articles, as the case may require; and if it shall be found, that their weight, number or feet, exceed the amount contained in the bill of lading thereof, the collector shall charge tolls, according to the weight, number, or feet thus found.

§ 135. In every such case, the master shall pay to the collector the expense of such weighing, counting or measuring, at the rate of twenty-five cents for every ton weighed; of five mills a-piece, of articles paying toll by the number; and of five cents for each hundred feet, of articles paying toll by the foot; and such expenses shall be chargeable on such articles, and on the boat containing them.

§ 136. The master of every boat shall be liable for the payment of tolls and expenses; and it shall be the duty of every collector of tolls to detain all articles on which tolls or expenses are chargeable, and each boat containing them, until such tolls or expenses shall be paid.

§ 137. If such payment be refused, the collector shall distrain so much of the property detained as shall be sufficient to satisfy the charges thereon; and at the expiration of eight days, if such charges shall remain unpaid, he shall expose to sale the property distrained, at his usual place of receiving tolls, and shall sell the same at public auction to the highest bidder.

§ 138. Any surplus arising from the sale, after the payment of the charges and of the costs of distress and sale, shall be paid on demand to the master of the boat, or the owner of the property distrained.

§ 139. Every master of a boat which usually runs on the canal night and day, or which belongs to any regular line of packet or freight boats shall, during each navigable season on the canal, as often at least as once in thirty days, and oftener, if required by the canal board, and under such regulations as that board shall establish, deliver to some collector of tolls a statement of passengers, and shall verify the same under oath, to be administered to him by such collector; and at the same time shall pay to such collector the lawful tolls on the passengers mentioned in the statement.

§ 140. The first statement so delivered, shall contain the names of all the passengers conveyed in such boat, from the commence-

(R. S., pt. I, ch. IX, tit. 9; R. S., 8th ed., 759.)

ment of its running in that season, until the delivery of the statement, and the distance to which each passenger was carried; and each subsequent statement shall contain the names of all the passengers, and the distance to which each was carried in such boat, since the time embraced in the last previous statement.

§ 141. If it shall happen, that during the time for which a statement is required, no passengers shall have been conveyed in such boat, the master thereof shall present to some collector an affidavit to be sworn to before such collector, that no passenger has been conveyed in such boat, during the time specified therein.

§ 142. If it shall happen that different persons have been masters, or had charge of any boat, for the time during which the statement or affidavit above mentioned is required, each person shall furnish such statement or affidavit for such portion of the time, as such boat was under his control or management.

§ 143. The several collectors shall transmit to the comptroller, the several affidavits and statements relative to passengers, received by them; and every master who shall neglect to furnish the affidavit or statement or to pay the toll on any passengers, by law required, and every owner of such boat, when such neglect occurred, shall for each offence forfeit the sum of twenty-five dollars.

§ 144. The commissioners of the canal fund may, in their discretion, prohibit such boat from receiving a clearance and navigating the canals, until such statement or affidavit be furnished, and the tolls paid.

§ 145. Every collector receiving such a statement, or affidavit, relative to passengers, shall give to the person from whom he received the same, a written acknowledgment thereof.

§ 146. A certificate made by the comptroller, under the seal of his office, after thirty days from the time when such a statement or affidavit ought to be made, that no statement or affidavit in respect to any particular boat, for the time particularly stated therein, has been received at his office, shall be presumptive evidence, that no such statement or affidavit has been made by the master of such boat for the time specified in the certificate.

§ 147. Every master or person having charge of any boat navigating a canal, which does not usually run in the night time, or which does not belong to any regular line of packet or freight boats, shall pay the lawful tolls on all passengers conveyed in such boat, in the same manner as he is required to pay toll on property conveyed; and every such master who shall omit to give a just and true account of such passengers, to the collector, at the place where such passengers shall be received in such

(R. S., pt. I. ch. IX, tit. 9; R. S., 8th ed., 760.)

boat, or at the office next in order in the course of the voyage, after receiving the same, or who shall refuse to verify the same under oath, when required by any collector, or to pay the toll on such passengers, shall for every offence forfeit the sum of twenty-five dollars.

§ 148. The commissioners of the canal fund may, in their discretion, receive from the owners of any boat a specified sum by the year, for a license to carry passengers therein, as a commutation for tolls upon passengers.

§ 149. Such commutation shall be paid at such time and in such manner as the commissioners may prescribe, and no statement or affidavit relative to conveying passengers, shall be required from the master of any boat so licensed.

**[Sections 133-149 are repealed and not re-enacted. Article VII, section 3 of the Constitution provides that no tolls shall be collected.]**

§ 150. Any clerk duly authorized by a collector may perform all the duties and exercise all the powers legally appertaining to such collector, in his absence, and the collector shall be responsible for the acts of such clerk.

**[Not re-enacted. It is obsolete.]**

§ 151. It shall be the duty of every collector of tolls, and if there be no collector present, of every superintendent, to assign berths to all boats when loading or unloading at any landing place on a canal whenever disputes shall arise concerning the same.

**[Section 151 is re-enacted in section 136 of the revision, without change in substance.]**

§ 152. No float shall move on any canal faster than at the rate of four miles an hour without a permission in writing, signed by a majority of the canal commissioners; and for each violation of this provision the master shall forfeit the sum of ten dollars.

§ 153. Where a boat used chiefly for the conveyance of persons, shall overtake any other float, not used chiefly for that purpose, it shall be the duty of the master of the latter to give to the former every practicable facility for passing, and whenever it shall become necessary, to stop, until such passage boat shall have fully passed.

§ 154. Where any float, in passing on either of the canals, shall meet with any other float, it shall be the duty of the master of each, to turn out to the right hand, so as to be wholly, on the right side of the center of the canal.

(R. S., pt. I, ch. IX, tit. 9; R. S., 8th ed., 761.)

§ 155. Where any floats shall approach any place on either of the canals, which is less than thirty feet wide on the surface, or which will not safely permit their passing, it shall be the duty of the master of the float going from the navigable waters of the Hudson river, to stop at such distance from such narrow place, as may be convenient for the float going towards such navigable waters to pass through such narrow place, and there to wait until such passage is effected.

§ 156. Every master or boatman violating any provision of the three sections immediately preceding, shall, for each offense, forfeit the sum of ten dollars.

**[Sections 152-156 are re-enacted in section 169 of the revision, without change in substance.]**

§ 157. Every float, within one hundred yards of a lock, if on the same level that the water in the lock then is, shall be permitted to pass the lock, before an other float not on the same level.

158. If, on the arrival of two or more floats at any lock, a question shall arise between their respective masters as to which shall be first entitled to pass, such question shall be determined by the lock-keeper, and each float shall be passed in the order and manner in which he shall direct.\*

§ 159. Every master, owner or navigator of any float refusing to conform to such determination of the lock-keeper, or detaining or unnecessarily hindering the passage of any float, through a lock, in violation of any provision of the two last sections, shall for each offense, forfeit the sum of twenty-five dollars.

**[Sections 157-159 are re-enacted in section 170 of the revision, without change in substance.]**

§ 160. No person navigating either of the canals, shall be permitted to use therein any setting pole or shaft, pointed with iron or other metal; and if any person shall offend against this section, he shall, for every such offense, forfeit the sum of twenty-five dollars.

§ 161. No covered or decked boat shall navigate any canal without a knife or sharp metallic instrument, so affixed upon the stem or bow of the boat, as to cut apart any tow rope, which otherwise might pass over such bow.

§ 162. Every owner or master of such boat, who shall neglect or refuse to comply with the above provision, shall, for each offense, forfeit the sum of twenty-five dollars.

**[Sections 160-162 are re-enacted in section 171 of the revision, without change in substance.]**

(R. S., pt. I, ch. IX, tit. 9; R. S., 8th ed., 762.)

§ 163. Every person who shall obstruct the navigation of any canal, by the improper mooring, management or conduct, of any boat or floating thing, shall, for every such offense, forfeit the sum of twenty-five dollars.

§ 164. If any person shall obstruct the navigation of any canal, by sinking any vessel, timber, stone, earth or other thing, to the bottom thereof, or by placing any obstruction on the towing-path thereof, or on the bank opposite the towing-path, he shall forfeit the sum of twenty-five dollars.

**[Sections 163, 164 are re-enacted in section 172 of the revision, without change in substance.]**

§ 165. It shall be the duty of every canal commissioner, collector, superintendent or agent, employed on the canals, to seize all boats, rafts, logs, or any floating or sunken thing, which may be found in a canal; or any article not under the care or charge of any person, so found on the tow path thereof; and to sell the same at public vendue, after giving ten days' written notice of such sale, at two public places nearest to the place where such boat, logs, floating or sunken thing may be found.

§ 166. If the owner of any article so seized shall appear and claim the same, before the time of sale, and pay the cost of seizure and expense of removal, no such sale shall take place.

§ 167. The avails of such sale shall be accounted for by the officer making the same, if he be not a collector, to the nearest collector, who shall make returns thereof to the commissioners of the canal fund. If the sale be made by a collector, he shall account for the avails thereof, to the commissioners of the canal fund.

§ 168. After such sale shall have been made, and the proceeds thereof paid to the commissioners of the canal fund, such commissioners may, on the application of the owners, and due proof of ownership, pay over such proceeds, after deducting the forfeiture, and all costs and reasonable charges thereon.

**[Sections 165-168 are re-enacted in section 173 of the revision, without change in substance.]**

§ 169. If any boatman, or person on board of any boat on any canal, shall take, without right, any rails, boards, planks or staves from the banks or vicinity of the canal, the master of the boat shall forfeit, to the owner, treble the value of the property taken, and the possession of such property on board the boat, shall be presumptive evidence of such taking.

(R. S., pt. I, ch. IX, tit. 9; R. S., 8th ed., 763.)

§ 170. Any person or boatman, who shall violate the provisions of the last section, shall forfeit twenty-five dollars to any person who will prosecute therefor.

【Sections 169, 170 are re-enacted in section 174 of the revision, without change in substance.】

§ 171. Every penalty and forfeiture, prescribed by this article, and which is declared to be recoverable against the owner, master, boatman, navigator, or other person having charge of any boat or other float, when incurred, shall be chargeable on such boat or float, and a suit for the recovery thereof, may be brought against any person, being in the possession, or having the charge, of such boat or other float, at the time such suit is commenced.

§ 172. When any suit shall be prosecuted for any such penalty or forfeiture, the magistrate issuing the process, by a clause to be inserted therein, may direct the officer executing the same, to detain such boat or float, and the furniture and horses belonging thereto, until the suit shall be determined, or until adequate security shall be given for the payment of any judgment that may be recovered.

§ 173. If such security shall be given, or the defendant in such suit shall prevail, the magistrate shall order the boat or other float and property detained to be released; but if no such security shall be given, and a judgment shall be recovered for such penalty or forfeiture, and the same, together with the costs shall not be immediately paid, an execution shall be issued, under which the property so detained, may be sold, in like manner, as if the judgment had been obtained against the owner thereof.

【Sections 171-173 are re-enacted in section 179 of the revision, without change in substance.】

(R. S., pt. I, ch. IX, tit. 9; R. S., 8th ed., 772.)

§ 174. In all cases where a new road or public highway, shall be laid out by legal authority, in such direction as to cross the line of any canal, and in such manner as to require the erection of a new bridge over the canal, for the accommodation of the road, such bridge shall be so constructed, and forever maintained, at the expense of the town in which it shall be situate.

【Re-enacted in section 116 of the revision, without change in substance.】

§ 175. No bridge shall be constructed across any canal, without first obtaining for the model and location thereof, the consent in writing of one of the canal commissioners, or of a superintendent

(R. S., pt. I, ch. IX, tit. 9; R. S., 8th ed., 772.)

of repairs, on that line of the canal which is intersected by the road.

§ 176. Every person who shall undertake to construct or to locate such bridge without such consent, and shall proceed therein, so far, as to place any materials for that purpose, on either bank of the canal, or on the bottom thereof, shall forfeit the sum of fifty dollars; and either of the commissioners, superintendents or engineers, shall be authorized to remove all such materials, as soon as they are discovered, wholly without the banks of the canal.

[Sections 175, 176 are re-enacted in section 115 of the revision, without change in substance.]

§ 177. No person, without the written permission of a canal commissioner, shall construct any wharf, basin or watering place, on any canal, or make or apply any device whatever, for the purpose of taking water from a canal; and every wharf, basin, watering place or device, constructed with such permission, shall be held during the pleasure of the canal commissioners, and be subject to their control.

§ 178. Every person who shall construct any such wharf, basin, watering place or device, without permission, or who shall omit to conform to the directions of the commissioner granting such permission, shall, for each offense, forfeit the sum of twenty-five dollars; and in every such case, the canal commissioners may remove or destroy the construction illegally made, at the expense of the person making it.

[Sections 177, 178 are re-enacted in section 176 of the revision, without change in substance.]

[Sections 179, 180 were repealed by L. 1886, ch. 593.]

§ 181. Every person who shall lead, ride or drive any horse, ox, ass, mule, or other cattle upon the towing-path of the canal, or upon the bank opposite to such towing-path, within the blue line of the canal, shall, for each offense, forfeit the sum of five dollars; but this section shall not be construed to extend to persons towing boats or other floats, or conveying articles unladen or to be laden from or to a canal, or any other person authorized by any canal superintendent or canal contractor to enter upon the towing-path or banks opposite thereto, for the purpose of examining or repairing the same; and whenever any canal or canal feeder is constructed through or upon any lands so as to render such lands inaccessible from a highway, except by the erection of a bridge over any canal or feeder, now or hereafter

constructed, it shall be lawful for the owner or owners of such lands on permission being obtained from the superintendent of public works to use so much of the towing-path or the banks opposite thereto, or the banks of any feeder as may be necessary to pass to and from such lands to a public highway without damage to such banks or interference to navigation; but such use shall cease whenever the state or local authorities shall construct suitable bridges over said canals and feeders to enable the said owners to pass to and from such lands to a public highway. (Thus amended by L. 1891, ch. 346.)

【Re-enacted in section 176 of the revision, without change in substance.】

(R. S., pt. I, ch. IX, tit. 9; R. S., 8th ed., 777.)

§ 183. It shall be the duty of every agent, toll collector, lock-keeper or superintendent, employed on any canal, and occupying any house, office, building or land, belonging thereto, who shall be discharged from his employment; and of the wife and family, of every such person, who shall die in such employment; to deliver up the possession of the premises so occupied, and of all books, papers, matters or things belonging to the canals, acquired by virtue of his office within seven days, after a notice shall have been served for that purpose, by the acting canal commissioner.

§ 184. In case of a refusal or neglect to make such delivery, in either of the above cases, it shall be the duty of any justice of the peace, in the county where such premises shall be situate, upon application, to issue his warrant under his hand and seal, ordering any constable or other peace officer, with such assistance as may be necessary, to enter upon the premises so occupied, in the day-time, and remove therefrom all persons found in possession thereof, and to take into his custody all books, papers, matters and things there found, belonging to the canals, and to deliver the same to the acting canal commissioner, or his authorized agent; and the officer to whom such warrant shall be delivered, shall execute the same according to its purport.

【Sections 183, 184 are re-enacted in section 34 of the revision, without change in substance.】

§ 185. No person owning any hydraulic works dependent upon the canals for their supply of water, or who shall be employed in or connected with any such works, or who shall be engaged in transporting property upon the canals, or who shall own, or be interested in, any boat, navigating the same, shall be employed

(R. S., pt. I, ch. IX, tit. 9; R. S., 8th ed., 777.)

as a superintendent, lock-keeper, collector of tolls, weigh-master, or other agent upon the canals.

【Re-enacted in section 32 of the revision, without change in substance.】

§ 186. No canal commissioner or other member of the canal board, or superintendent, engineer, or person holding any appointment under the canal commissioners, or any one of them, or under any superintendent of repairs, or other officer on the canals, shall hereafter become interested in any hydraulic work dependent on the canals for a supply of water, or become interested own name or in the name of any other person, or shall, either directly or indirectly, become interested in any contract on the canals as a contractor, surety or otherwise, either in his own name or in the name of any other person, or shall either directly or indirectly, derive any benefit from the ordinary or extraordinary expenditures on the canals beyond his established compensation; and if any canal commissioner, member of the canal board, superintendent, engineer or person holding any appointment under the canal commissioners or any one of them, or under any superintendent of repairs or other officer, on the canals, shall, at any time hereafter, become interested or derive any benefit as aforesaid, he shall forfeit his office or appointment. (Thus amended by L. 1843, chap. 181.)

【Re-enacted in section 33 of the revision, without change in substance.】

§ 187. Every collector of tolls, the clerks of each collector, not exceeding two, having the collector's certificate that they are actually employed by him, and all superintendents of repairs, lock-tenders, inspectors of boats and weigh-masters, shall be exempted from the performance of military duty, and jury service, while actually engaged in their respective employments on the canals, while the same are navigable.

【Partly re-enacted in section 31 of the revision. The part of the section relating to jury service is covered by Code of Civil Procedure, section 1030, and is therefore repealed without re-enactment.】

§ 188. All suits for penalties and forfeitures imposed in any article of this title, or for damages, in behalf of the state, shall be prosecuted in the name of the people of this state, by such persons and in such manner as the commissioners of the canal fund, in their regulations, shall direct; and all moneys recovered

(R. S., pt. I, ch. IX, tit. 9; R. S., 8th ed., 778.)

therein, shall be accounted for and paid over to such commissioners.

**[Re-enacted in section 180 of the revision, without change in substance.]**

§189. Every such penalty or forfeiture, not exceeding the sum of fifty dollars, may be recovered before any justice of the peace in any county.

**[Repealed without re-enactment, because covered by Code Civil Procedure, sections 2862, 2863.]**

§ 190. The term "float," as used in this title shall be construed to embrace every boat, vessel, raft or floating thing, navigated on the canals, or moved thereon, under the direction of some person having the charge thereof; and the term "master," as so used, shall be construed to apply to every person, having for the time, the charge, control or direction, of any such float.

**[Re-enacted in section 160 of the revision, without change in substance.]**

§ 191. If any person against whom any forfeiture shall be recovered under the provisions of this title, shall not immediately pay the full amount of the judgment so obtained, the court by which such judgment shall be given, shall, without delay, issue an execution against his property or person, at the election of the party prosecuting the suit.

**[Omitted as obsolete.]**

§ 192. The imposition or recovery of any penalty or forfeiture, imposed for the violation of any provision of this title, shall not be considered a bar to the recovery of any damages, resulting from such violation, to the state or to individuals.

**[Re-enacted in section 180 of the revision, without change in substance.]**

§ 193. The comptroller shall prepare the forms of all clearances, bills of lading, statements, and other papers necessary to be used under the provisions of this title, and shall from time to time, transmit the same to the different officers and agents on the canal, for whose use they may be required.

**[Omitted as obsolete.]**

§ 194. No more water shall be taken into any level of either of the canals, than shall be sufficient to supply such level during the days of the greatest business, and also to supply any other level of

(R. S., pt. I. ch. IX, tit. 9; R. S., 8th ed., 778.)

the canal, or other public work of the state, dependent upon such level for a supply of water.

§ 195. Every waste-weir upon the same level as either of the canals, shall be constructed, as nearly as may be consistent with the safety and convenience of the canals, of the same height, but in all cases so as to leave a depth of at least four feet water in the level; and there also shall be constructed one waste-gate, as nearly opposite to the mouth of every feeder taken into the canal, as the convenient discharge of the water will permit.

【Sections 194, 195 are re-enacted in section 178 of the revision, without change in substance.】

(L. 1829, ch. 368; R. S., 8th ed., 734 and 738.)

Section 1. It shall be the duty of the canal appraisers personally to view the premises on which damages shall be claimed, and to meet at such times and places as they may deem necessary, and as nearly in the vicinity of the premises as conveniently may be, and hear such proper and relevant evidence as shall be offered, and direct the attendance of witnesses in behalf of the state, if in their opinion the interest of the state shall require it; and they are for that purpose empowered to administer oaths to witnesses; and wilful false swearing before the said appraisers, is hereby declared perjury.

§ 2. It shall be their duty to enter in a book to be kept for that purpose, the nature and extent of all claims on which they shall pass, the items on which allowances are made, and the several amounts allowed, and the items on which no allowance is made; and they shall enter at length the testimony taken, and the grounds and reason for their decision.

§ 3. Every person having exhibited a claim for damages to the appraisers, or the canal commissioners, where they shall deem the interest of the state to require it, may enter an appeal from the decision of the appraisers on such claim, to the canal board, who shall proceed to reverse, affirm or modify the appraisement, as in their opinion justice shall require; and their decision shall in all cases be final and conclusive.

§ 4. Every such appeal shall be made in writing, stating briefly the grounds on which the appeal is made; if made by the canal commissioners, one copy of the appeal shall be served on the canal appraisers, and another on the party claiming damages, his guardian or agent, either personally or by leaving the same at his usual place of abode; if made by the party claiming damages, one copy of said appeal shall be served on the appraisers, or one of them, and another on the canal commissioners.

(L. 1829, ch. 368; R. S., 8th ed., 738.)

§ 5. It shall be the duty of the canal appraisers, within thirty days after any claim is decided upon, to make a transcript of the entry of such decision, and file the same in the clerk's office of the county in which the premises passed upon are situate; and in all cases the appeal must be made, and the proper copies served, within three months from the time such transcript is filed in the clerk's office as aforesaid.

§ 6. The appraisers shall make a return in writing, to every appeal so served on them, setting forth a copy of the claim for damages; a transcript of the evidence, if any; the items on which allowances were made, and the several amounts; the items, if any, on which no allowance was made; and the reasons and grounds on which their decision is made.

§ 7. It shall be the duty of the canal board to meet from time to time, and decide on all cases of appeals made from the decisions of the appraisers; and if, in their opinion, the interest of the state requires it, they shall direct the attendance of the appraisers, or either of them, to give evidence in relation to the subject matter of the appeal; they shall decide all cases of appeal on the evidence or information contained in the transcript furnished by the appraisers, and the evidence of the appraisers, if any, is obtained.

§ 8. In all cases in which the canal appraisers are required to act by any law of this state, one of the acting canal commissioners shall be associated with them in their appraisal and final determination thereon.

§ 9. Any member of the canal board is hereby authorized to administer oaths to witnesses on all matters which may be examined before said board; and wilful false swearing before said board is hereby declared to be perjury.

§ 10. The canal board may require the attendance of witnesses before them on the part of the state, if in their opinion the interests of the state require it; and for that purpose they may issue subpoenas, to be signed by their president for the time being, which shall be served by any sheriff or constable by said board thereunto required, and every person duly subpoenaed to attend before said board, who shall wilfully neglect to obey such subpoena, shall forfeit fifty dollars, to be recovered with costs of suit, before any court having cognizance thereof.

§ 11. The canal board may allow and direct the canal commissioners, or commissioners of the canal fund, to pay to any officer such board may require to serve subpoenas, or to witnesses attending in pursuance of such subpoena, such sum as they may deem just and reasonable for such service or attendance.

(L. 1829, ch. 368; R. S., 8th ed., 738.)

§ 12. So much of title nine of chapter nine of the first part of the Revised Statutes, as is inconsistent with this act, is hereby repealed.

【Sections 1-8 of this act are obsolete, and are repealed, and not re-enacted.

Sections 9-11, referring to the power of the canal board to swear witnesses, and to require their attendance, are fully covered by sections 843 and 854 of the Code of Civil Procedure. These sections are not, therefore, re-enacted in the revision.】

(L. 1830, ch. 117; R. S., 8th ed., 763.)

Section 1. The provisions of one hundred and sixty-nine, one hundred and seventy, one hundred and seventy-one, one hundred and seventy-two, and one hundred and seventy-three, of said article, are hereby amended, so as to include fire-wood and fencing-posts in the list of articles therein enumerated, and intended to be secured from depredation.

【Re-enacted in section 174 of the revision, without change in substance. The remainder of the act is amendatory.】

(L. 1830, ch. 293; R. S., 8th ed., 734.)

Section 1. When any lands are overflowed by the erection of any dam by the canal commissioners on any river or stream connected with the public works, it shall be the duty of the canal appraisers to make a just and equitable appraisement of the damages sustained by the owners of such lands.

§ 2. The existing laws in relation to the appraisement and payment of damages, where lands are appropriated by the canal commissioners to the use of the public, shall apply to the appraisement of damages sustained by the owners of the lands mentioned in the foregoing section.

【Re-enacted in section 74 of the revision, without change in substance.】

(L. 1833, ch. 196; R. S., 8th ed., 763.)

Section 1. Whenever the navigation of any of the canals shall be interrupted or endangered by reason of a deficiency of water, it shall be the duty of the canal commissioners, without delay, to supply such deficiency; and for that purpose they shall, by themselves or their agents, resume the temporary use of all the surplus waters which shall have been leased upon the level of the canal where such deficiency exists; and in such case, if there shall still be a deficiency of water, then they shall have power to enter upon and use all lands, streams and waters, which in their judgment may be necessary or proper to be used, to procure a temporary supply of water for such canals.

(L. 1833, ch. 196; R. S., 8th ed., 763.)

§ 2. When damages shall be claimed by the owner of any lands, streams or waters, which shall have been used for temporary purposes under the authority given in the preceding section, such damages shall be agreed upon, or appraised and paid, in the same manner as is provided for the agreement or appraisal and payment of damages, in cases where land shall have been occupied for temporary purposes, or from which materials shall have been obtained for repairs; but no damages shall in any case be allowed for resuming the use of any surplus waters of the canals leased to any individuals.

§ 3. The damages which any owner of lands, streams or waters, may have sustained at any time within two years prior to the passage of this act, by reason of the temporary use, by the canal commissioners or their agents, of such lands, streams or waters, for the purpose of preventing the interruption of the navigation of any canal, shall be agreed upon or appraised and paid, in the manner provided in the preceding section: provided application for such damages shall be made within one year after the passage of this act.

【Sections 1, 2. are re-enacted in section 77 of the revision, without change in substance.

Section 3 is omitted as obsolete.】

(L. 1834, ch. 276; R. S., 8th ed., 721.)

§ 17. The canal commissioners are hereby invested with a general supervisory power over so much of any railroad as passes over any canal or feeder belonging to this state, or approaches within ten rods of such canal or feeder, so far as such power may be necessary to preserve the free and perfect use of the canals or feeders of this state, and necessary for making any repairs, improvements or alterations in the same; and said company shall not construct their railroad over or at any place within ten rods of any canal or feeder belonging to this state, unless said company shall lay before the commissioners aforesaid a map, plan and profile, as well of the canal or feeder as of the route designated for their railroad, exhibiting distinctly and accurately the relation of each to the other, at all the places within the limits of ten rods as aforesaid; and shall thereupon obtain the written permission of said canal commissioners, with such conditions, instructions and limitation as, in the judgment of said canal commissioners, the free and perfect use of any such canal or feeder may require.

【This section is re-enacted in section 5 of the revision, without change in substance. The remainder of this act is not repealed.】

(L. 1835, ch. 21; R. S., 8th ed., 738.)

Section 1. All such rules and regulations in relation to the canals, as are now authorized by sections twenty-five, one hundred and forty-eight, one hundred and forty-nine, and one hundred and eighty-eight, of title nine of chapter nine of the first part of the Revised Statutes, to be made by the canal commissioners, or the commissioners of the canal fund, may hereafter be made by the canal board, with the like penalties and forfeitures as are now provided in said title.

[Re-enacted in section 10 of the revision, without change in substance.]

(L. 1836, ch. 287; R. S., 8th ed., 735.)

§ 10. When damages shall be claimed by the owner of any lands, waters or streams, which the canal commissioners shall have occupied for temporary purposes, in the construction or improvement of any state canal, or other works connected therewith, or on which they shall have entered for the purpose of obtaining materials for the construction or improvement of such canal, or other works connected therewith, such damages, if not settled by agreement, shall be appraised by the canal appraisers.

§ 11. The proceedings in relation to the appraisal of such damages shall be, in all respects, the same as the proceedings in relation to the appraisal of damages for lands, streams or waters appropriated by the canal commissioners to the use of the public; except that no transcript of such appraisal shall be recorded in the clerk's office of any county.

[The remainder of this act was clearly abrogated by the act creating the Board of Claims, L. 1883, ch. 205.]

Section 10 is re-enacted in section 74 of the revision, without change in substance.

Section 11 is omitted. The proceedings provided by law for the appraisal of damages for lands, etc., by the act creating the board of claims, L. 1883, ch. 205, also apply to cases like this.]

(L. 1837, ch. 451; R. S., 8th ed., 779.)

Section 1. Either of the acting canal commissioners may draw upon the commissioners of the canal fund for any sum to be advanced to an engineer to meet the expenses of the engineer department; and if the bond of said engineer shall have been duly filed in the office of the comptroller, and a receipt of the engineer for such draft shall also be filed in the same office, it shall be the duty of the commissioners of the canal fund to

(L. 1837, ch. 451; R. S., 8th ed., 779.)

pay the draft; provided the advances to an engineer unaccounted for, shall at no time exceed the sum of five thousand dollars.

§ 2. Before any advance shall be made to an engineer, he shall execute and file in the office of the comptroller, a bond to the people of this state, for the faithful expenditure of the moneys which shall be entrusted to him, in such penalty and form as the canal board shall direct, and with such sureties as the comptroller shall approve; upon which said bond the said engineer and his sureties shall be responsible to the state for moneys advanced to him as aforesaid.

§ 3. Such engineer shall, as often as once in ninety days, render his account to the comptroller, who shall audit the same; and if he shall omit to render his account, or his accounts as rendered be not satisfactory, the comptroller shall notify the canal commissioners and the commissioners of the canal fund thereof; and no further advances of money shall be made to such engineer.

§ 4. Before any engineer's account for expenditures shall be presented to the comptroller, the canal commissioner having charge of that part of the canal on which such engineer is employed, shall certify on such account that he has examined the same; that the several disbursements specified therein were made under his direction on the canal, or for payments necessary to be made thereon; and that he believes such disbursements to be proper and reasonable, and to have been made as charged.

§ 5. The canal board shall have power to modify or reduce any of the penalties imposed by article seven of chapter nine, title nine of the first part of the Revised Statutes.

§ 6. The original maps of the canals of this state, which purport to have been made and completed under and in virtue of the first article of title nine, chapter nine of the first part of the Revised Statutes, which said maps are now filed in the office of the comptroller; and such maps of said canals as hereafter shall be made, completed, approved, signed, certified and filed under and in virtue of the act referred to, are hereby declared to be presumptive evidence that the lands indicated on said maps as belonging to the state, have been taken and appropriated by the state as and for the canals; and a transcript from any such maps, certified as required by the act referred to, shall be of equal effect with the original.

§ 7. Before any advance of money shall be made to a superintendent of canal repairs by the commissioners of the canal fund, he shall make out a detailed statement, in such form as the said commisssioners shall prescribe, of the several anticipated objects of expenditure on the line of canal under his charge.

(L. 1837, ch. 451; R. S., 8th ed., 779.)

§ 8. If the said estimate shall be filed in the office of the comptroller, with the certificate thereon, of the acting canal commissioner, stating that in his opinion, the whole amount, or if less than the whole amount, what portion of the said estimate should be advanced, the commissioners of the canal fund may make advances on the same, in such sums, and as often as they may deem necessary; provide such advances shall not exceed the amount certified by the commissioner.

[Sections 1-4 of this act were superseded by L. 1876, ch. 385, section 3; R. S., 8th ed., 727, which is re-enacted in section 21 of the revision.

Section 5 is re-enacted in section 10 of the revision.

Section 6 is provided for in sections 4 and 5 of the revision.

Sections 7, 8 are re-enacted in section 27 of the revision.]

(L. 1839, ch. 207; R. S., 8th ed., 773.)

Section 1. The canal commissioners are hereby authorized and required to construct and hereafter maintain at the public expense, road and street bridges over the enlarged Erie canal, in all places where such bridges have been heretofore constructed, if in their opinion the public convenience requires that they should be continued, whether the same have been heretofore maintained at the expense of the state, or of the towns, cities or villages where they are situate.

§ 2. The said commissioners are also authorized to construct farm bridges over said canal in all places where the same, in their opinion, are reasonably required, in reference to the accommodation of the owner of the land and a due regard to economy, to the state, and the convenience of navigation. But neither this nor the preceding section shall be construed to abridge the power of the canal commissioners in relation to streets, roads and bridges, as now provided by law.

§ 3. Whenever a farm bridge shall be constructed in lieu of one heretofore maintained by the owner or owners of the land, and damages shall be claimed by such owner or owners for the appropriation of lands or other injury done in such enlargement, the benefit derived by such owner or owners, by being relieved from the expense of maintaining the former bridge over the canal, shall be set off against any damages so claimed.

§ 4. The said commissioners are also hereby authorized in all cases, where in their opinion the same can be done consistent with the public interest, to commute with owners and claimants of bridges over the canal, by paying such owner or claimant such sum in lieu of a bridge as may be agreed upon between the claim-

(L. 1839, ch. 207; R. S., 8th ed., 773.)

ant and said commissioners. And in all cases where in the opinion of said commissioners, a bridge over the canal ought not to be rebuilt, and the sum to be paid for commutation shall not be agreed upon as aforesaid, the said bridge shall not be built. but the damages sustained by such owner or owners by being deprived of such bridge, and which the state, under all the circumstances, ought of right to pay, shall be appraised by the canal appraisers and paid by said commissioners.

§ 5. In all cases where damages shall be claimed for being deprived of a bridge which the claimant had before constructed or maintained, the circumstance of his being equitably bound to contribute towards the construction and maintenance of an enlarged bridge, a sum equal to the expense of the maintenance of a bridge proportioned to the size of the original canal shall be taken into consideration by the appraisers, and a proper amount on that account shall be set off against any damages to which the claimant might otherwise be entitled.

§ 6. The proceedings in relation to the appraisement of such damages, shall be in all respects the same as the proceedings in relation to the appraisal of damages for lands, streams or waters appropriated by the canal commissioners to the use of the public; and appeals from such appraisement may be made in the same manner.

[Sections 1, 2, 3 are re-enacted in section 111 of the revision, without change in substance.

Sections 4, 5 are re-enacted in section 112 of the revision, without change in substance.

Section 6 is repealed and omitted from the revision as obsolete.]

(L. 1839, ch. 316; R. S., 8th ed., 750.)

Section 1. The canal commissioners are hereby authorized to permit the surplus water flowing over any of the dams on the Oswego river to be used for hydraulic purposes, by the owners of the lands, over or upon which such waters may flow, under such regulations and restrictions as they may impose, and subject to be resumed, in whole or in part, whenever they shall think proper, without any right of the persons receiving such permission to claim any damages or compensation for such resumption; but such permission shall not be given to use any water on the levels of the said canal, nor the water at the dam nearest the village of Oswego.

[Re-enacted in section 100 of the revision, without change in substance.]

(L. 1840, ch. 201; R. S., 8th ed., 738.)

Section 1. The canal board are hereby authorized to grant a rehearing, in any case they now are, or may hereafter be, authorized to adjudicate, whenever, in their judgment, the justice of the case may require it; but no party shall be entitled to but one rehearing, and the adjudication upon such rehearing shall be final and conclusive; but no such rehearing shall be granted, unless application in writing shall be made therefor, within sixty days after such case shall have been adjudicated by the said board.

[Re-enacted in section 10 of the revision, without change in substance.]

(L. 1840, ch. 292; R. S., 8th ed., 739.)

Section 1. Whenever the canal commissioners shall construct, and in every case where they have heretofore constructed any dam, pier, mole or other work in any canal, lake, river or other body of water, the canal board is hereby authorized and empowered to grant permission to such extent and on such terms, conditions and stipulations as said board may deem proper, to any person to erect on such dam, pier, mole or other work, any warehouse, mill or other building, suited and intended to be used for commercial or manufacturing purposes, or for any purpose incidental and auxiliary thereto, and to use such amount of water power created by such dam, pier, mole or other work, as may, in the opinion of the canal board, be so erected and used without injury to such dam, pier, mole or other work, and without detriment or obstruction to the public use thereof, or to the navigation of such canal, lake, river or other body of water therewith connected; but such permission, as aforesaid, shall not be granted in any case other than the pier in the Niagara river at Black Rock, to any person who is not the owner of the land over which the water to be used flows, or the owner of the land adjoining the river or other stream of water at the place where any such dam, mole or other work is or shall be erected.

§ 2. Whenever the canal board shall grant any permission under this act, such permission shall be expressed by a resolution of said board entered at full length on its minutes, and including all such terms, conditions and stipulations as the board may deem expedient, and such permission shall be executed by a written lease, in duplicate, to be signed by the comptroller in the name of the people of the state of New York, and by the

(L. 1840, ch. 292; R. S., 8th ed., 739.)

lessee on the other part, and one duplicate of such lease shall be deposited in the canal room for the use of the canal board, and the other duplicate shall be delivered to the lessee; and a copy thereof, or of the resolution aforesaid, certified by the clerk of the canal board, shall in all cases be evidence equally and in the same manner as the original.

§ 3. Every building erected by the permission of the canal board under this act shall be erected on such part of any dam, pier, mole or other work, and shall be constructed on such plan, and shall not exceed such dimensions, as may receive the approval and consent of the board of canal commissioners, and be by them specified in a written resolution, to be entered at full length in the minutes of that board, and a copy of such resolution certified by the secretary of said board, with the written assent of the lessee thereto annexed, shall be delivered by the said secretary to the clerk of the canal board, to be deposited in the canal room before the delivery of the lease mentioned in the preceding section. A copy of such resolution of the board of canal commissioners, certified by the secretary thereof, shall in all cases be evidence equally and in the same manner as the original.

§ 4. This act shall not impair the restriction as to leasing surplus waters, made by joint resolution of the senate and assembly, passed April 25, 1831.

【This act is re-enacted in section 11 of the revision, without change in substance.

The only change made in the revision is in regard to the place of filing the duplicates of the lease and consent. They are to be filed in the office of the comptroller.】

(L. 1840, ch. 372; R. S., 8th ed., 774.)

Section 1. The provisions of the fourth section of the "Act in relation to bridges over the enlarged Erie canal," passed April 20, 1839, shall be applicable to the several canals of this state.

§ 2. Whenever the canal commissioners shall deem that the state may be reasonably required to erect a farm bridge over any of the canals of this state, for the accommodation of the owner or owners of adjacent lands, and they can not commute for said bridge with such owner and claimant on satisfactory terms, in case the said commissioners determine that a private road through adjacent lands will sufficiently accommodate such owner or claimant, they are hereby authorized to apply to the commissioners of highways of the town in which such lands lie, to lay out a private road for the accommodation of such owner and claimant, under

the provisions of article four, chapter sixteen, title first, part first of the Revised Statutes; and such damage as may be assessed to the owner of the lands through which said road is laid out, shall be paid by the commissioners, when the same can be done with a due regard to economy to the state.

[Section 1 of this act is obsolete.]

Section 2 is re-enacted in section 113 of the revision, without change in substance.]

(L. 1841, ch. 160; R. S., 8th ed., 740.)

[Section 1 of this act, relating to tolls, does not appear in the 8th edition of the Revised Statutes. It is omitted as obsolete.]

§ 2. No petition under the fourth article of the ninth title and ninth chapter of part first of the Revised Statutes, for extra allowance to any contractor for work performed on any canal before the passage of this act, shall be received or acted upon by the canal board, unless it shall be presented within one year after this act takes effect, and no petition for extra allowance for work performed after this act shall take effect shall be received or acted on by the canal board, unless the same shall be presented within one year after the performance of such work.

[Omitted as obsolete.]

§ 3. The canal board may direct the district attorney of the proper county to conduct an inquiry into the truth of any charges made or to be made against any superintendent, collector or other officer appointed or employed by such board, or by the canal commissioners, and the same proceedings shall be had thereon, in all respects, as provided by the fourth article of the sixth title and fifth chapter of part first of the Revised Statutes, in relation to charges against a sheriff or county clerk, except that the testimony so taken shall be transmitted to the canal board, and the necessary expenses of any such inquiry shall be certified by the canal board and paid by the commissioners of the canal fund, out of the canal revenues.

[Re-enacted in section 13 of the revision, without change in substance.]

§ 4. Any three members of the canal board, designated by the said board, shall be competent to take and reduce to writing any testimony offered to the board in relation to claims for extra allowances to any contractor.

[This section is re-enacted in section 10 of the revision, without change in substance.]

§ 5. When any damages shall have been awarded by the canal appraisers, or settled by the canal board, for appropriating any

lands, streams or waters to the use of any canal, and it shall appear that there is any mortgage, judgment or other lien or incumbrance upon the property appropriated, the commissioners of the canal fund may, in their discretion, deposit the amount so awarded or settled in any bank selected for the deposit of canal revenues, to the account of such award, to be paid and distributed to the parties entitled to the same, as shall be ordered by the court of chancery, on the application of the said parties, or any of them.

**[Omitted as obsolete.]**

(L. 1842, ch. 274; R. S., 8th ed., 751.)

Section 1. Whenever any lease for surplus waters of Black Rock harbor, may become liable to forfeiture in consequence of the non-payments of the rents due thereon, before declaring the same forfeited, the comptroller shall give at least six months' notice, in two newspapers published in the county of Erie, that the same will be forfeited unless the rents due shall then be paid, with the costs of such advertising; if the rents shall not then be paid, the canal board may direct that any separate privilege of taking and using water included in such lease, the rent on which separate privilege has been regularly paid, which shall be occupied and applied to any machinery, shall be separately exposed to sale; or they may require the canal appraisers to estimate and appraise the value of such separate privilege, having reference to the terms of the original lease and subject to the approval of the canal board; and upon receiving such appraisal the canal board may sell such privilege to the person so occupying the same, as shall be deemed just and equitable, under the circumstances, and may thereupon cause a lease for such privilege to be executed according to law.

**[Re-enacted in section 101 of the revision, without change in substance.]**

(L. 1843, ch. 181; R. S., 8th ed., 780.)

[Section 1 of this act amends part I, ch. IX, tit. 9, § 186, ante.]

§ 2. Whenever charges shall be preferred under the above section, against any engineer or other officer or person holding their appointment from the canal commissioners or any one of them, or from a superintendent of repairs or other officer on the canals, it shall be the duty of the board of canal commissioners to investigate the same; and whenever charges are preferred against any officer holding his appointment from the canal board, it shall be the duty of the canal board to investigate said charges; and it shall be the duty of said boards, respectively,

to dismiss said officers or persons if the charges are sustained; and all contracts made in violation of this act, are hereby declared to be void.

[The power to investigate charges against any officer mentioned in this section is now possessed by the superintendent of public works and is contained in section 23 of the revision; the rest of the section is in section 33 of the revision.

(L. 1847, ch. 100; R. S., 8th ed., 2415.)

Section 1. It shall be the duty of the superintendents of canals, to cause all Canada thistles and other noxious weeds, growing on the banks and sides of the canals, to the width owned by the state, to be cut down twice in each and every year, once between the fifteenth day of June and the first day of July, and once between the fifteenth day of August and the first day of September.

§ 2. If the said officers shall refuse or neglect to cause the same to be cut at the times as aforesaid, it shall be lawful for any person or persons, to cut the same between the first and fifteenth days of July, and between the first and fifteenth days of September, in each and every year, at the expense of the superintendents having charge of the sections on which such thistles and noxious weeds shall be so cut, at the rate of one dollar per day for the time occupied in so cutting, to be recovered in any court of justice in this state.

[Re-enacted, without change in substance, in section 35 of the revision.]

(L. 1847, ch. 278; R. S., 8th ed., 780.)

Section 1. Every engineer employed by virtue of the fifteenth section, article second, title nine of chapter nine of the first part of the Revised Statutes, shall be furnished with a copy of the resolution of his appointment by the canal commissioners, certified by the secretary of the board; and before entering on the duties of his office such engineer shall take the constitutional oath and file the same in the office of the secretary of state.

§ 2. No money shall hereafter be advanced or paid to any canal contractor on his contract, except on the sworn certificate of an engineer, in such form as the canal board shall prescribe, that he has actually measured the work or material included in the certificate, and believes that the quantities therein stated do not exceed the amounts actually performed or delivered by the contractor, which certificate shall be sworn to before either of the canal commissioners or any judge or justice of the peace.

(L. 1847, ch.278; R. S., 8th ed., 780.)

§ 3. The sworn measurement referred to in the preceding section shall be given to the canal commissioner, and shall accompany the receipt of the contractor when presented at the canal department for final audit.

【Section 1 is re-enacted in section 51 of the revision.

Sections 2, 3 are re-enacted in section 146 of the revision, without change in substance.】

§ 4. Every engineer on whose certificate payments are made for any public work shall enter in a book to be kept for that purpose every measurement made by himself or his assistant, with such explanation in regard to the location and character of the material, if the same has not been placed in the public work as will enable his successor to identify and secure the material for the use of the state, and on leaving the public service, such book of measurements shall be deposited with the secretary of the board of canal commissioners.

【Section 4 is re-enacted in section 58 of the revision, without change in substance.】

§ 5. Each canal superintendent under such regulations as shall be prescribed by the canal board, shall procure all boats, wheelbarrows, tools and implements, lumber, stone and other materials required for the ordinary repairs of the canals by giving notice for two weeks in two papers designated to publish the laws in each county through which his section of the canal passes, of the day and hour when sealed propositions will be received for the supply of the articles required. In addition to the requirements of sections thirty-four and thirty-five, article two, title nine of chapter nine of the first part of the Revised Statutes, the canal board, shall prescribe such rules in regard to the notice to be given, and the time and manner of receiving and opening proposals as will effectually secure the rights of the bidders and the interests of the state, and in rebuilding locks, bridges and other structures on the finished canals the canal commissioner shall contract for the same on sealed propositions except during the season of navigation.

§ 6. Every person proposing to become a contractor for furnishing materials or tools under this act shall accompany his proposals by an engagement, substantially in such form as said canal board shall prescribe, signed by some responsible person or persons guaranteeing that said person or persons making such proposal shall within ten days after the acceptance of his or their proposals by said commissioners, enter into a contract in writing with said commissioners and their successors in office for the faithful performance of such proposals; and if any person or persons to whom

(L. 1847, ch. 278; R. S., 8th ed., 781.)

any contract may be awarded shall neglect or refuse to enter into such contract within such time as is herein prescribed for that purpose, it shall be the duty of said commissioners to receive further proposals for furnishing such materials and tools as remain uncontracted for by reason of such neglect, and to prosecute the person or persons so neglecting to enter into contract according to their proposals and their sureties for such damages as the state may have sustained by reason of such neglect or refusal.

§ 7. Every contractor shall give satisfactory security to the canal commissioners for the faithful performance of his contract, and if any person or persons having entered into any such contract shall fail, neglect or refuse to perform his contract or the requisitions of the canal commissioners or superintendent having the oversight and charge thereof, made in conformity with such contract, such contract may by said canal commissioners be declared abandoned, and such person or persons shall be thereafter excluded from any interest in any future contract in relation to the same and all similar objects.

§ 8. If any contractor for the furnishing of any tools or materials upon any section or sections of any of said canals shall fail, neglect or refuse to perform his contract relative thereto, or to comply with any requisition made in accordance therewith of any acting canal commissioner or superintendent in charge of any such section or sections, it shall be the duty of such commissioner or superintendent under his order to procure all such tools and materials as may be necessary for immediate use and until such contract shall be re-let, and such contractor and his sureties shall be liable for all damages which may result from such neglect or refusal, together with all necessary extra cost of materials and tools over and above the contract price, rendered necessary to be purchased or procured by any commissioner or superintendent by reason of such neglect or refusal.

[Section 5 is re-enacted in section 139 of the revision, without change in substance. Section 6 is re-enacted in section 140 of the revision, without change. Section 7 is re-enacted in section 134 of the revision, without change. Section 8 is re-enacted in section 142 of the revision, without change.]

§ 9. In the event of any breach or other extraordinary event rendering necessary an increased quantity or amount of materials or tools upon any section of said canals, the supply of which can not consistently with the safety and requisite good reparation or condition of said canals to be obtained under and by virtue of the contracts herein required to be made in season for the

(L. 1847, ch. 278; R. S., 8th ed., 781.)

exigencies of the occasion, any canal commissioner or superintendent in charge of any portion of said canal where such necessity may exist, is hereby authorized and required to supply any deficiency that may be found to exist upon the best practicable terms for the interests of the state, rendering to the canal board as soon as consistent thereafter, a just and true detailed statement of the materials or tools purchased and of the circumstances rendering such purchase necessary, which statement or a copy thereof shall be communicated to the legislature at its next session. But nothing herein contained shall be so construed as to permit the purchase of any materials or tools for the supply of which contracts are in existence in any other manner than by contract, whenever the same can be procured by contract without delay to the navigation of the canals or injury to the interests of the state.

[This section is obsolete, and superseded by the provisions of L. 1849, ch. 363; R. S., 8th ed., 774, and L. 1866, ch. 836; R. S., 8th ed., 742, re-enacted herein.]

§ 10. All materials and tools purchased by and delivered or offered for delivery in pursuance of any contract made under the provisions of this act shall be carefully and thoroughly examined and inspected by an acting canal commissioner or superintendent in charge of the section where the same may be delivered for such use, and such examination and inspection is hereby required to be made by the commissioner in person as far as shall be consistent with the discharge of his other necessary official duties; and the officer making such examination and inspection shall immediately thereafter make a report to the canal board of such examination and inspection, in which he shall state the quantity, quality and amount or number of the materials or tools examined and received or rejected as being or not being in conformity with the contract under which they may be offered for acceptance, and when any portion of such materials or tools shall be rejected as not in conformity with the contract the reasons for such rejection shall be stated and set forth in such report, which shall contain an account of the time when and place where such examination was made, and the section or sections for which such materials or tools were designed for use so far as the same are accepted, specifying the quantity, number and amount by items, of all materials and tools for each and every of said sections for repairs, and which said report shall be made under the oath or affirmation, before some proper officer authorized to administer oaths, of the person or persons making the same.

[Re-enacted in section 141 of the revision, without change in substance.]

(L. 1847, ch. 278; R. S., 8th ed., 782.)

§ 11. All contracts made in pursuance of this act shall contain a provision for the speedy and equitable adjustment of all questions that may arise relative to the performance or otherwise of any of said contracts.

[This section is re-enacted in section 142 of the revision, without change in substance.]

§ 12. The commissioners of the canal fund are hereby authorized and required to pay from the moneys in their hands, which may at the time be appropriated for the repairs of the canals of the state, all such sums of money as shall from time to time become due to contractors by reason of the performance of any contract entered into in pursuance of this act, but no such payment shall be made for any materials or tools except such as shall have been accepted as being in conformity with the contract under which they were delivered, and of which acceptance the report required by the tenth section of this act shall have been duly filed with the canal board or in the office of the clerk of the canal department, and when such report shall have been made by a superintendent of repairs and not by the commissioner having charge of that portion of the canals where such materials or tools were delivered and accepted, it shall be the duty of the commissioner so in charge, and he is hereby required to state that such materials and tools were in his judgment necessary for use upon the section where delivered, or would become necessary within a period in such statement to be specified, that the purchase thereof is in his belief in pursuance of some contract, specifying with whom and the reasons why such examination was not made by himself in person, which statement shall be verified by the oath or affirmation of the commissioner making the same, annexed to such report and filed therewith.

[Re-enacted in section 141 of the revision, without change in substance.]

§ 13. All work connected with the enlargement and improvement of the Erie canal, done under contracts made by the canal commissioners, shall be kept distinct as far as practicable from the ordinary repairs of the canal by superintendents. The regulations of the canal board, made in compliance with the provisions of the preceding sections of this act, shall apply to all proceedings of the canal commissioners and engineers in giving notice and receiving propositions in relation to any of the public works.

[The first sentence of this section is re-enacted in section 136 of the revision; the remainder is not re-enacted.]

§ 14. It shall be the duty of each acting canal commissioner at least once in thirty days during the season of canal navigation,

(L. 1847, ch. 278; R. S., 8th ed., 783.)

to visit and examine every part of the line of canal assigned to his special charge, and as often as three times in each season to give public notice of such visitation, and that he will attend to such complaints as may be made under the fifth subdivision, section twenty-nine, article two, title nine of chapter nine of the first part of the Revised Statutes, and for the service required in this section, the commissioner shall be allowed six cents for each mile travelled on the line of his division of the canals; but the aggregate mileage in one year to any commissioner shall not exceed the sum of two hundred dollars. And if from sickness, or any other cause, the acting commissioner on any division cannot or does not attend to his duty, the service shall be performed by the state engineer and surveyor or the chief engineer at the same rate of compensation.

§ 15. Weighmasters on the state canals and inspectors of canal boats are hereby authorized to administer oaths when it becomes necessary in the discharge of their duties.

【Sections 14, 15 are obsolete and are, therefore, not re-enacted.】

(L. 1848, ch. 72; R. S., 8th ed., 526.)

Section 1. The office of the state engineer and surveyor shall be kept in the new state hall, and the trustees thereof shall assign a suitable room or rooms therein for his use.

§ 2. The state engineer and surveyor shall possess all the powers and discharge all the duties prescribed or required by law to be discharged by the surveyor-general prior to the first day of January, eighteen hundred and forty-eight, except his powers and duties as a commissioner of the canal fund.

【Sections 1, 2 are not repealed.】

§ 3. The state engineer and surveyor shall have the general supervision of the engineer department, and shall perform all such duties in relation to the canals, as shall be required by the canal board, and shall visit and inspect the public works of this state as often as in his judgment it shall be necessary.

§ 4. The canal board is authorised to prescribe the duties of all such division, resident and assistant engineers as may be appointed pursuant to law.

§ 5. The canal board may or may not, as it shall deem expedient, appoint during its pleasure not exceeding three division engineers, and the said board shall, from time to time, appoint during its pleasure so many resident and assistant engineers as it shall deem necessary to be employed upon the public works of this state, and shall prescribe their compensation.

(L. 1848, ch. 72; R. S., 8th ed., 527.)

§ 6. Whenever any division, resident or assistant engineer shall be required by the canal board or the canal commissioners, or the acting commissioner on his division of the canals, to perform any service in the line of his duty, he shall perform the same under the supervision of the state engineer and surveyor, and shall, under the sanction of the board of commissioners requiring the same, be authorised to employ the requisite assistants and laborers to enable him to perform such service.

§ 7. Every engineer, surveyor and assistant, before entering upon the duties of his office, shall take and subscribe the oath prescribed by the Constitution, which oath shall be filed in the office of the secretary of state.

§ 8. Whenever the state engineer and surveyor, or either of the canal commissioners, shall suspect any fraud or misconduct on the part of any engineer or assistant, in relation to the public works, it shall be his duty to report the same to the canal board, who may employ so many and such agents and engineers as they deem proper, to aid them in the investigation of the matter, and draw on the commissioners of the canal fund for their compensation, and the expenses of such investigation.

§ 9. Before any work is contracted upon any of the public works of this state, the quantity of embankment, excavation, masonry and all other structures, and the quantity and quality of all materials to be used in such work or structure, shall be ascertained and determined with all practicable accuracy, and the work shall be done according to the plans and specifications exhibited at the letting of the contracts, and no alterations shall be made therein, except by the consent and approval of the commissioner in charge of the division upon which such work is located, nor unless such alteration and approval be reduced to writing, and signed by the parties making the same.

§ 10. Before the canal commissioners shall contract for any work that may hereafter be authorized by law, the maps, plans, profiles and estimates thereof, shall be submitted to the state engineer and surveyor, who shall report to said commissioners his opinion thereon.

[Sections 3, 6, 9 and 10 are re-enacted in section 50 of the revision.

Sections 4, 5, 7 are re-enacted in section 51 of the revision.

Section 8 is re-enacted in section 23 of the revision.

All these sections were superseded in effect by L. 1876, ch. 385, which is re-enacted in sections 50, 51 of the revision.]

§ 11. There be allowed and paid to the state engineer and surveyor, an annual salary of two thousand and five hundred dollars,

(L. 1848, ch. 72; R. S., 8th ed., 527.)

to be paid out of the canal fund quarterly, to commence on the first day of January, eighteen hundred and forty-eight, besides travel fees, at the same rate as those allowed each of the canal commissioners, but such travel fees shall not exceed two hundred dollars in any one year.

**[Superseded by Executive Law, section 60.]**

§ 12. So much of all laws and parts of laws as conflict with the provisions of this act, or authorize the appointment or employment of any of the officers or persons whose appointment is hereinbefore provided for in any other manner than according to the provisions of this act, are hereby repealed.

**[Obsolete and not re-enacted.]**

(L. 1849, ch. 352; R. S., 8th ed., 735.)

Section 1. Whenever any tract or parcel of land shall be divided by the location or enlargement of any of the canals of this state, and the canal board shall be of opinion that it is necessary for the public use, to take and appropriate either portion of such land, the canal commissioner shall cause a survey and map of such portion of such land to be filed in the office of the clerk of the county where such land is situated, and thereupon the title to such portion of land shall vest in the state, in the same manner as other land taken by the state for the construction of the canal.

§ 2. The owner of any land taken by the state, as provided in the last section, shall be entitled to compensation and damages for the lands so taken, to be ascertained and appraised in the same manner as for lands taken and appropriated for the construction of the canal.

§ 3. Whenever the canal board shall, by resolution, determine that any lands taken for the purposes of the canal, may be sold beneficially to the state, the commissioners of the land office may sell, grant and convey the right, title and interest of the state in such lands, and the proceeds of such sale shall be credited to the fund appropriated for the construction of the canal for which such lands were taken.

**[Sections 1, 2 are fully covered by sections 70 and 73 of the revision, although not actually re-enacted.]**

Section 3 is partly re-enacted in section 10, subdivision 9, of the revision. The last clause, authorizing the land commissioners to sell, is contained in the proposed public lands law, article 3.]

(L. 1849, ch. 363; R. S., 8th ed., 774.)

Section 1. The canal commissioners are hereby authorized to direct the superintendent of canal repairs to purchase materials

and tools for the ordinary repairs of the canals, without advertising for the same, whenever in their opinion the interests of the state will be promoted thereby; and shall not be bound to accept proposals unless they deem it for the interests of the state.

[Re-enacted in section 137 of the revision, without change in substance.]

(L. 1850, ch. 278; R. S., 8th ed., 774.)

Section 1. It shall be the duty of any canal commissioner or other officer having charge of the letting of any contract for work on any of the canals or other public works of this state, to require and take, in addition to the bond now required by law for the security of the state, a bond with good and sufficient sureties not less than two, conditioned that such contractor shall well and truly pay in full, at least once in each month, all laborers employed by him on the work specified in such contract, which bond shall be duly acknowledged before any officer authorized to take acknowledgment of deeds, and filed by the officer taking the same, in the office of the clerk of the county, wherein such work or contract is to be performed. And when such work shall be partly in two or more counties, there shall be such a bond filed in the clerk's office of each county.

§ 2. Suits may be commenced on said bond before a justice of the peace, when the amount claimed shall not exceed the jurisdiction of a justice of the peace, and a transcript of such bond, duly authenticated by the county clerk, may be used in evidence in such suit.

§ 3. The bringing of a suit by one or more laborers, upon such bond, shall not operate as a bar to the bringing of other suits thereon, by any of the parties for whose benefit such bond was taken, and to whom such contractor shall be indebted for labor. But no recourse shall be had to the sureties upon such bond, unless proceedings shall be commenced within thirty days after the completion of the labor, the payment of which is secured by such bond. But nothing in this act contained shall prevent or bar a suit against such contractor within the time limited by law.

[All re-enacted in section 135 of the revision, without change in substance.]

(L. 1850, ch. 377; R. S., 8th ed., 722.)

[Sections 1 to 4 were repealed by L. 1862, ch. 69, section 3.]

§ 5. The state engineer and surveyor shall visit and carefully inspect all the canals of this state, at least once in each year, and

(L. 1850, ch. 377; R. S., 8th ed., 722.)

shall make such additional visits and examinations of the whole or any portion thereof, and shall communicate to the canal board and to the canal commissioners such information and suggestions, from time to time, in relation to the improvement and maintenance of the canals as he may deem the public interest to require.

§ 6. Before any line for the enlargement of the Erie canal, the construction or the improvement of any lateral canal or any sections thereof, not already under contract, shall be finally located, the state engineer and surveyor shall cause such surveys, maps, plans, specifications and estimates of the expense of constructing the prism and banks of the canal, and of the mechanical structures required to be built thereon; or shall, in his discretion, revise such maps, specifications and estimates of surveys previously made, as will render it practicable readily to determine the line of canal, and the plan of constructing the same, and the kind and plan of the mechanical structures that should be adopted, and shall communicate the same to the canal board, with his opinion in relation thereto, in writing, together with his opinion as to the time when the public interest requires that the construction of such line or portion of the canal should be commenced, and the time when the same should be completed.

**[Sections 5. 6 re-enacted in section 50 of the revision, without change in substance.]**

§ 7. It shall be the duty of each division engineer frequently to pass over and carefully inspect all of the canals embraced in the division under his charge, and to examine and if necessary review all surveys, maps, profiles, admeasurements, plans, specifications and estimates made in reference thereto by any engineer employed on said division, and to see that the engineers and overseers of work employed thereon faithfully perform their duties. The division engineers shall make to the state engineer and surveyor and to the canal commissioner in special charge of the division, and to the superintendents of repairs, such suggestions in relation to repairs and the plan of making the same as will, in their opinion, most tend to a safe and economical maintenance of the navigation of the canals.

**[Re-enacted in section 52 of the revision, without change in substance.]**

§ 8. The division engineers shall, under the direction of the state engineer and surveyor, make or cause to be made all surveys, maps, plans, specifications and estimates that may be necessary or required by the canal board or canal commissioners to determine the proper location of the line of the canal, or any portion thereof, on their respective divisions, or that may be necessary preparatory

(L. 1850, ch. 377; R. S., 8th ed., 723.)

to placing any work under contract for construction, and shall transmit a copy thereof to the state engineer and surveyor, who shall upon a due inspection and revision submit the same to the canal board with his approval endorsed thereon, and on obtaining thereon their certificate of adoption, he shall file the same in his office.

[Re-enacted in section 53 of the revision, without change in substance.]

§ 9. Before any work shall be contracted for on any of the canals of this state, the division engineers shall ascertain or cause to be ascertained with all practical accuracy the quantity of embankment, excavation, masonry and the quantity and quality of all materials to be used, and all other items of work to be placed under contract, a statement of which, together with maps, plans and specifications corresponding with those adopted by the canal board and on file in the office of the state engineer and surveyor shall be publicly exhibited to persons proposing for the work to be let. The quantities so exhibited shall be used in determining the value of the propositions received, and after the contracts shall have been awarded, said statement of quantities, together with the maps, plans and specifications, and all other papers relating to the work advertised, and which were exhibited as aforesaid, and are necessary to identify the plan and extent of the work so awarded, shall be filed in the office of the state engineer and surveyor, accompanied with the certificate of the division or resident engineer, stating the time and place they were so exhibited. No alteration shall be made in any map, plan or specification adopted by the canal board, and so exhibited, or the plan of any work under contract during its progress, except by the consent and approval of the commissioner and the division engineer, nor unless the description of such alteration and the approval thereof be reduced to writing and be signed by the parties making the same, and a copy thereof shall have been filed in the office of the state engineer and surveyor. Nothing in this section contained shall be construed to authorize any change of plan that shall increase the expense of the work, or create any claims against the state for damages arising therefrom unless a written statement setting forth the objects to be attained by such change and the expense thereof shall have been submitted to the canal board, and their assent at a meeting in which the state engineer and surveyor were present shall have been obtained.

[Section 9 re-enacted in section 130 of the revision, without change in substance.]

§ 10. It shall be the duty of the resident engineers, under the immediate direction of the division engineers, respectively, to sur-

(L. 1850, ch. 377; R. S., 8th ed., 724.)

vey, lay out, measure and compute the quantities of all work ordered by the canal board or the canal commissioners, to be surveyed for location, construction or other purposes, to assist the division engineer so far as may be necessary in making maps, plans, specifications and estimates, to see that the work done on the several subdivisions is well and faithfully performed by the contractors, and in all respects strictly according to the terms of the contracts and on the completion of the same, they shall accurately ascertain the quantity of the several items of work done, and the amount at the contract prices, and shall present to the canal commissioner or the division engineer a final statement thereof, in such form duly verified as shall be prescribed by the auditor of the canal department; each resident engineer shall enter, or cause to be entered, in a book which shall be furnished for that purpose by the state engineer and surveyor, all of the field-notes and computations of the items of work done on the subdivision under his charge, with such recapitulations, diagrams and other illustrations as may be necessary to render the same intelligible, together with a statement of the total quantity of each item of work done, and the amount thereof at the contract price, and the aggregate amount at contract prices of the work done by each contractor, which entry shall be made in due form and properly certified by the several engineers who may have made it within three months from the time the final statement mentioned in this section shall have been prepared, and the book or books containing such entries shall, within one hundred days after the completion of the work on each subdivision, be properly indexed and filed in the office of the state engineer and surveyor. The resident engineers shall severally perform such other services in the line of their duties as shall, from time to time, be required by the state engineer and surveyor, or the division engineer in charge of the subdivisions on which they may be located, and, in case of the absence or inability of the division engineers to act, the resident engineer shall discharge the duties of such division engineer so far as relates to the subdivision assigned to said resident engineer.

§ 11. It shall be the duty of the first assistant engineer, when directed by the resident or division engineer, to lay out and accurately measure and compute the quantities of the several items of work done or to be done in constructing the public work within the limits severally assigned to them, to see that the work is, on the part of the contractors and others connected therewith, faithfully performed, and in all other respects to aid and assist the resident engineer in the discharge of his duties as prescribed in the preceding section of this act, and to perform such other service in

(L. 1850, ch. 377; R. S., 8th ed., 724.)

the line of his duties as the resident or division engineer may from time to time require.

【Sections 10, 11 re-enacted in sections 56, 57, respectively, of the revision, without change in substance.】

§ 12. Whenever any resident or first assistant engineer shall, by the canal commissioner in special charge of the division upon which they may be located, be required to perform any service in the line of their duty other than is in this act contained, they shall severally perform the same under the supervision of the division engineer, and shall, under the sanction of the commissioner requiring the same, and of the division engineer, be authorized to employ such additional assistants and laborers as may be necessary to enable them to perform such service.

§ 13. The canal commissioner in special charge of a division shall have power, with the concurrence of the state engineer and surveyor, to remove for cause any engineer employed on such division.

§ 14. The canal commissioners in special charge of a division shall have power, with the concurrence of the state engineer and surveyor, to suspend any engineer on such division for misconduct or neglect of duty, and to appoint another to discharge the duties during such suspension. The state engineer and surveyor or commissioner who with the concurrence aforesaid shall suspend any engineer, as aforesaid, shall forthwith report the same to the canal board, with his reasons therefor, and serve a copy of such report on the engineer so suspended. The canal board shall hear the proofs and allegations of the parties, and discharge or retain such engineer, as they may deem right.

【Sections 12-14 are omitted from the revision as obsolete.

The power to remove and control engineers is given to the state engineer by statutes superseding these sections which are re-enacted in section 50 of the revision.】

§ 15. The state engineer and surveyor shall annually report to the legislature within twenty days after the commencement of its session, the number and compensation of the engineers employed, and that many have been employed during the preceding year, on the public works of this state, designating the number employed on each resident's subdivision, and the length and estimated cost of the work under contract, the amount done and remaining to be done at the contract prices, on said subdivisions respectively. Said report shall also contain such other information in relation to his proceedings under this act, and such suggestions in the line of his duty in relation thereto as he may deem the public interest to require.

(L. 1850, ch. 377; R. S., 8th ed., 724.)

**[Section 15 is re-enacted in section 50 of the revision, without change in substance.]**

§ 16. So much of all laws and parts of laws as conflict with the provisions of this act, or authorize the appointment or employment of any of the officers or persons whose appointment is hereinbefore provided for, in any other manner than according to the provisions of this act, are hereby repealed.

**[Not re-enacted, as it is obsolete.]**

(L. 1851, ch. 57; R. S., 8th ed., 753.)

Section 1. Superintendents appointed by the canal board on the several canals of this state, shall give their personal and constant attention to the duties of their office.

§ 2. No superintendent, appointed as aforesaid, shall under any pretence whatever take a receipt for labor done, services performed or materials furnished for the canals, when the money shall not be actually paid.

§ 3. Each superintendent, so appointed, shall have power to appoint his own foreman, lock-tenders and other subordinate persons necessary to enable him to discharge his official duties, and the compensation to each shall not exceed the rate of compensation established by the board of canal commissioners. But the canal commissioner in charge of any section of the canal in which any foreman, lock-tender or other subordinate person may be employed, or the board of canal commissioners shall have absolute power to remove any foreman, lock-tender or other subordinate for misconduct, incompetency or neglect of duty; provided such canal commissioner or the board of canal commissioners making such removal shall specify the cause of such removal in writing and file the same in the office of the auditor of the canal department within ten days from the date of such removal. In case of the removal of any such foreman, lock-tender or other subordinate, it shall be the duty of the commissioner or the board of canal commissioners making such removal immediately to notify the superintendent in charge of the section of the canal where such removal shall be made, of the fact of such removal; and in case the superintendent shall neglect or refuse for three days to fill the vacancy thus created, and to notify the commissioner or board of canal commissioners thereof, it shall be the duty of the canal commissioner or the board of canal commissioners making such removal to fill such vacancy.

**[This act is obsolete and is not re-enacted.]**

(L. 1852, ch. 246; R. S., 8th ed., 725.)

Section 1. The canal commissioners are hereby authorized and required to take charge of so much of the navigable waters of the Cayuga inlet, as are now subject to canal tolls, and to exercise the same power and supervision over them as they are by law authorized and required to exercise over other canals of this state; and shall cause to be removed such obstructions therefrom, and make such improvements therein, as may from time to time be necessary to preserve and keep the channel of said inlet of sufficient depth and capacity to admit the passage of any boats or water craft which may navigate the Erie canal.

§ 2. The treasurer is hereby authorized and required to pay on the warrant of the comptroller such sum or sums as may from time to time be required to effect the purposes of this act, from any moneys in the treasury not otherwise appropriated; but such sum shall not at any time exceed the aggregate of tolls heretofore collected together with the amount which may be hereafter collected from boats or property passing through said channel.

【Section 1 is re-enacted in section 23 of the revision, without change in substance.

Section 2 is omitted as obsolete.】

(L. 1853, ch. 52; R. S., 8th ed., 753.)

Section 1. It shall be the duty of each canal superintendent of this state, or of the officer upon whom the duties of superintendent shall be devolved, on or before the twentieth day of each month, to publish in some newspaper printed in any county through which any part of the section of the canal in his charge shall pass (giving preference to a newspaper published in a city and town located on the line of the section of canal in his charge, or in the county of his residence when possible), an abstract of his official disbursements during the preceding calendar month, stating therein the name and residence of every person to whom he has paid money, and the amount paid to each; if for labor, the number of days and the amount per day; if for material, the kind, quantity and price; also a similar statement of tools and implements purchased, which abstract, verified by the oath of such superintendent, shall be published in the entire weekly edition of such newspaper, and said superintendent shall also make and file a duplicate thereof in the office of the county clerk in the county in which such superintendent shall reside. The expense of publication herein provided for, at not exceeding the legal rates now allowed by law for the publication of session laws, shall be included from time to time

(L. 1853, ch. 52; R. S. 8th ed., 754.)

in the monthly abstracts of the superintendent, and the amount thereof shall be paid in the like manner and upon like vouchers as other disbursements and expenditures of the said superintendent are audited and paid; the said publication to be made in such form and manner as may be prescribed by the auditor, and the expense for publication shall be determined and approved by him. (Thus amended by L. 1874, chap. 172.)

§ 3. The auditor of the canal department shall prescribe the form of such abstract, and cause the necessary blanks to be printed and sent to the superintendent, together with such instructions for publication or filing as will be necessary to insure uniformity in the same.

§ 4. Immediately after the publication of filing such abstract in the county or town clerk's office, he shall transmit to said auditor a certificate to the effect that the same has been filed or published according to law, in which he shall state the aggregate amount of such abstract, the form of which certificate shall also be prescribed by said auditor.

§ 5. Said abstract so filed shall be subject to the inspection of the public at all reasonable office hours.

[All re-enacted in section 28 of the revision, without change in substance.]

(L. 1854, ch. 332; R. S., 8th ed., 740.)

Section 1. The assent of five members of the canal board shall be requisite to the adoption of all questions or resolutions involving the expenditure or appropriations of the public moneys, and all such questions or resolutions shall be taken by ayes and noes, and entered upon the minutes.

§ 2. It shall be the duty of the secretary of the canal board to cause to be published, in the state daily paper at Albany, the minutes of said board as soon as may be after each session.

[By constitution, article V, section 3, the superintendent of public works is substituted in the place of the canal commissioners, thus the number of members of the canal board is reduced from nine to seven, to correspond with this change; the revision section 12, requires four for a quorum instead of five. With this exception these sections are re-enacted in section 12 of the revision, without change.

[Sections 3 and 4 of this act are omitted from the eighth edition of the Revised Statutes, as obsolete.]

§ 5. Before the auditor shall be required to pay any damages that may be awarded, or the amount of any commutation agreed on for the appropriation of land or water, or for the want of a farm bridge, he shall be furnished with a satisfactory abstract of title,

(L. 1854, ch. 332; R. S., 8th ed., 741.)

and certificate of search as to incumbrances, showing the person demanding such damages or commutation to be legally entitled thereto, which abstract and search shall be retained and filed in his office.

[Re-enacted in section 37 of the revision, without change in substance.]

§ 6. No person shall be entitled to demand a farm bridge across any of the state canals or their feeders, in any case when the necessity or convenience of such bridge shall have arisen from the division or acquisition of any property subsequent to the location of such canal or feeder.

§ 7. Chapter two hundred and seven of the laws of eighteen hundred and thirty-nine, and all other existing laws in relation to bridges over the enlarged Erie canal, shall be applicable to bridges over the enlarged Oswego and the enlarged Cayuga and Seneca canals, and the Cayuga inlet.

[Section 8 was repealed by L. 1886, ch. 593.]

§ 9. Hereafter no street or road bridges shall be constructed or reconstructed by the superintendent of public works over any canal in this state except upon such streets or roads as were laid out, worked and used previous to the construction of the canals by which such streets or roads were obstructed; and when bridges are constructed or reconstructed, upon any of the streets or roads aforesaid, the cost to the state shall in no case be more than is required to preserve in a safe and substantial manner the continuity of such streets or roads so as not unnecessarily to impair their usefulness; but when bridges of a more costly character are desired by the local authorities of the cities, towns or villages within whose corporate limits bridges are to be built or rebuilt, it shall be lawful for the superintendent of public works, upon presentation to him by such local authorities of plans and specifications therefor, approved by the state engineer and surveyor, to estimate and determine the proportion of the cost thereof, which, in the fulfillment of its obligation to preserve the continuity of streets and roads as aforesaid, the state ought equitably to pay, and file such estimate and determination in his office and a duplicate thereof in the office of the clerk of the city, town or village, wherein said bridge is to be located, and no more than such proportion so determined as aforesaid, shall hereafter be appropriated by the legislature for such purposes, and then only on condition that such cities, towns or villages shall pay the remainder of said costs. (Thus amended by L. 1891, ch. 366.)

[Sections 6, 9, are re-enacted in section 116 of the revision, without change in substance.

Section 7 is obsolete, and is not re-enacted.]

(Laws 1855, ch. 535, §§ 1, 2 and 4 are amendatory.)

(L. 1859, ch. 376; R. S., 8th ed., 725.)

Section 1. Whenever, from interest, or having been counsel for any claimant of damages against this state, in the matter of such claim, or being related to such claimant, any canal commissioner shall be disqualified from acting in any case where by law any power or duty is imposed upon such commissioner, or the board of canal commissioners, on filing in the office of the auditor of the canal department the certificate of such commissioner, stating his disqualification, the said auditor is authorized, and it shall be his duty to act in the place of such disqualified commissioner, in the matter of such claim.

【This act became obsolete by the abolishing of the offices of canal commissioner and canal auditor, and is therefore not re-enacted.】

(L. 1859, ch. 495; R. S., 8th ed., 741.)

Section 1. The canal board shall not have power to cancel any contract entered into for the enlargement and completion of the canals of this state, unless upon application of the contractor or contractors in cases where the state has failed to make payment according to the contract; nor shall the said board have power to cancel any contract entered into, pursuant to the laws of this state, to keep in repair any completed or uncompleted portions of the canals of this state; and neither the said canal board nor the canal commissioners, or either of them, shall have power to make any allowance to contractors, under contracts for keeping said canals in repair, beyond the sums stipulated to be paid by such contracts; and no abatement or allowance shall be made to any contractor of repairs, from the sum agreed to be paid by him to the state, for the boats, tolls, implements and materials embraced in the inventory exhibited at the letting and attached to the contract for repairs.

【Repealed and not re-enacted. Such section is obsolete and is superseded by constitution, article VII, section 3.】

§ 2. All contracts entered into by any canal commissioner, superintendent of canal repairs, or engineer in charge of repairs, for the delivery of timber or lumber for the repairs of the canals, or to do or complete a specific job of work relating to such repairs, and involving the performance of labor, and the furnishing of materials, when not advertised to be let to the lowest bidder, shall be in writing; and such contract, duly authenticated, shall, within fifteen days after the same shall be executed, and before any money shall be paid thereon, be filed in the canal department; and all such contracts shall state the time within which the same is to be

(L. 1859, ch. 495; R. S., 8th ed., 741.)

performed and executed, which shall not exceed one year from the date thereof.

**[Re-enacted in section 131 of the revision, without change in substance.]**

[Sections 3, 4 and 5, relating to collectors of tolls and weigh-masters, are omitted as obsolete.]

§ 6. For the purpose of protecting the state in its property, revenue and tolls on the canals the canal board is hereby authorized to appoint ten inspectors and measurers of lumber and timber, and of boats and their cargoes, to be located at such points and places on the canals as may be deemed most expedient to accomplish the objects of the appointment.

§ 7. The measurers and inspectors authorized to be appointed under the next preceding section are hereby authorized to administer oaths, when the same becomes necessary, to enable them to discharge the duties of their respective offices.

**[Sections 6, 7, are obsolete and are not re-enacted.]**

§ 8. When any superintendent of canal repairs, or resident engineer having charge of such repairs, shall submit to the canal commissioner in charge the detailed statement of the several anticipated objects of expenditure on the line of the canal under his charge, it shall be the duty of such commissioner, if he dissents from any particular object of expenditure set forth in such estimate, in whole or in part, or if he shall consider the sum estimated for the objects named to be larger than will be required, to state, in writing, on the estimate, his allowance or disallowance of each particular object of expenditure named therein, and of the amount which in his judgment may be required for each work or object; and every such superintendent and engineer shall apply the sums so estimated and allowed to the work or object named in such estimate, and to no other purpose whatever. And all orders and directions given by any engineer to any contractor on the public works, during the progress of the same, and in relation thereto, shall be in writing.

**[Sections 9 and 10 omitted as obsolete.]**

§ 11. All laws and parts of laws in conflict with the provisions of this act are hereby repealed.

**[Section 8 re-enacted in section 27 of the revision, without change in substance.]**

**[Section 11 is omitted.]**

(L. 1861, ch. 124; R. S., 8th ed., 764.)

Section 1. Any boat may move on any of the enlarged canals of this state, at any rate of speed that may be fixed by the canal board, not exceeding six miles an hour.

(L. 1861, ch. 124; R. S., 8th ed., 764.)

§ 2. When any boat propelled or towed by steam, in passing on either of the canals of this state, shall meet or overtake any other boat or float, not so propelled or towed, except when such boat or float is waiting its turn for lockage, it shall be the duty of the master of each, to turn out so as to allow the boat propelled or towed by steam, to pass on the berme side of the canal. Every master or boatman, who shall violate any provision of this section, shall for each offence, forfeit the sum of ten dollars.

【Sections 1, 2, are re-enacted in section 169 of the revision, without change in substance.

Section 5 and part of section 4 were repealed by L. 1886, ch. 593; section 3 and the remainder of section 4 relate to collectors and weighmasters and are omitted from the 8th ed. of the Revised Statute as obsolete.】

§ 6. The auditor of the canal department is authorized and required, whenever there is a short supply of water for the Syracuse level, insufficient to maintain fully seven feet in depth upon all portions thereof, and supply the Oswego canal, to suspend the weighing of boats at the Syracuse weigh-lock, and stop all use or leakage of water through the same; and in case of such deficiency the canal commissioners are authorized and directed to make any arrangement to supply the same within their power, which shall not cost over thirty thousand dollars for the first year, and not to exceed five thousand dollars a year thereafter.

§ 7. All acts and parts of acts inconsistent with this act are hereby repealed.

【Sections 6, 7 are omitted as obsolete.】

(L. 1862, ch. 169; R. S., 8th ed., 725.)

[Sections 1 and 2 relate to the enlargement of the canals and are omitted.]

§ 3. Hereafter, no more than one division engineer and an resident engineer shall be employed upon each division of the said canals. The said division engineer and resident engineer shall be appointed by the canal board, and they shall be practical engineers, and have the certificate of the state engineer as to fitness, capacity and integrity; and the said board shall fix the compensation of such engineers. The state engineer and surveyor shall prescribe and define the duties of the engineers so appointed, and shall assign each division engineer and resident engineer to a division of the canal corresponding with the division of each of the canal commissioners. The first, second, third and fourth sections of the act entitled "An act prescribing the powers and duties of the state engineer and surveyor, and of the engi-

(L. 1862, ch. 169; R. S., 8th ed., 726.)

neers employed on the public works," passed April tenth, eighteen hundred and fifty, are hereby repealed. (Thus amended by L. 1865, chap. 477.)

【The first and third sentences of this section are re-enacted in section 50 of the revision, the remainder is obsolete. The power to appoint division and resident engineers is vested in the state engineer.】

§ 4. In case it may be necessary to employ, temporarily, additional assistance to aid the engineers in the performance of some specific job of work or duty, the same may be done by the division engineer in charge where the work is to be performed, with the assent of the state engineer and surveyor and the commissioner in charge of the division where the work is to be performed; and the said state engineer and surveyor and canal commissioner shall file a statement in the canal department, containing the names of the persons to be employed, the nature of their duties, severally, and the daily compensation to be paid to each, and the periods during which such employment is to continue. And every engineer appointed by the canal board under this act shall, before entering upon the duties of his office, file in the canal department his bond, duly executed to the people of the state, in such sum and with such surety for the faithful discharge of his duties as the auditor shall approve, and shall take and subscribe the constitutional oath of office, which oath shall be filed in the office of the secretary of state. No money shall be advanced to any engineer on account of services rendered; nor shall any account of moneys disbursed by him be audited until the provisions of this section shall have been fully complied with. (Thus amended by L. 1865, chap. 477.)

【This section is obsolete and not re-enacted, except that portion relating to the official bonds of the resident and division engineers which is re-enacted in section 50 of the revision, without change in substance.】

§ 5. The services and duties performed by the said engineers shall be such as relate strictly to the repairs and maintenance of the completed canals of the state, and the compensation allowed and expenses incurred under the provisions of this act, shall be paid out of the appropriation for superintendence, collection and ordinary repairs of the canals.

【Section 6 qualifies sections 1 and 2.

This section is obsolete and is not re-enacted.】

(L. 1862, ch. 354; R. S., 8th ed., 775.)

Section 1. It shall not be lawful for any person to lead, ride or drive any horse or horses, mule or mules, faster than on a walk

(L. 1862, ch. 354; R. S., 8th ed., 775.)

over any bridge belonging to or under the control of this state, which is now or may hereafter be erected over any canal, canal feeder, stream or river thereof.

§ 2. No person shall hereafter drive any cattle across any bridge or bridges referred to in the first section of this act, at a faster rate than upon a walk, and shall not, in so driving them over, permit more than twenty-five cattle to be upon any such bridge at one time.

§ 3. Any person violating either of the provisions of this act shall be liable to a penalty, for each offense, fifteen dollars, to be sued for and recovered in any court having cognizance thereof, by the contractor, in the name of the people of this state, whenever such bridge or bridges, where the offence shall be committed shall be embraced within his repair contract, and in all other cases by the superintendent of canal repairs. Such penalty when recovered shall be credited to the state in the first settlement thereafter of the accounts of such contractor or superintendent with the state.

[Re-enacted in section 176 of the revision, without change in substance.]

(L. 1862, ch. 415; R. S., 8th ed., 783.)

Section 1. Whenever the government of the United States shall provide the means, either in cash or their six per cent stock or bonds, redeemable within twenty years, for defraying the cost of enlarging a single tier of locks, or building an addition tier in whole or in part upon the Erie and the Oswego canals, including any necessary alteration of said canals, or their structures, to a size sufficient to pass vessels adequate to the defense of northern and northwestern lakes, the canal board shall, without delay, put such work under contract, in the manner now required by law, to be constructed and completed at the earliest practical period, without serious interruption to navigation, with power in the discretion of the canal board, to direct the construction of new and independent locks, when found more advantageous. The said canal board shall, whenever the government of the United States shall provide the means as aforesaid, construct a canal of the requisite dimensions and capacity, from the Erie canal, at or near the village of Clyde, to some proper point on the Great Sodus Bay or Lake Ontario.

§ 2. The canal board are hereby authorized, in like manner to enlarge the Champlain canal, and its locks and other structures, to a size sufficient to pass vessels of like capacity, in case the government of United States shall, in like manner, provide the means required for that purpose.

§ 3. The dimensions and character of all the work hereinabove mentioned, shall be determined by the canal board, subject to

(L. 1862, ch. 415; R. S., 8th ed., 783.)

the examination and concurrence of the war department of the government of the United States. Contracts for any of said work may be made payable in the said six per cent stock and bonds of the United States, if the commissioners of the canal fund shall so elect.

§ 4. On completing the said work on either of the said canals, the government of the United States shall have the perpetual right of passage through the canals thus enlarged or built, free from toll or charge, for its vessels of war, boats, gunboats, transports, troops, supplies or munitions of war, subject to the general regulations prescribed by the state from time to time, for the navigation of its canals.

§ 5. Any moneys or other means which may be received from the government of the United States, to pay for any of said work, are hereby appropriated to be expended for the purposes hereinabove mentioned.

§ 6. But nothing in this act contained shall authorize the contracting or incurring of any debt or liability, directly or indirectly, on the part of the state, or the expenditure of any means or money of the state of New York for the purposes specified in this act.

**[This act is obsolete; it is repealed and not re-enacted.]**

(L. 1863, ch. 194; R. S., 8th ed., 735.)

Section 1. All canal commissioners' drafts and certificates, and all estimates of engineers, whether final or monthly, made, given or issued since the first day of January, eighteen hundred and sixty, for work done and materials furnished for the construction of any of the canals of this state, and all awards made by the canal appraisers, the canal board or canal commissioners, for damages, shall be entitled to draw interest at the rate of six per cent per annum after sixty days from the date thereof, for the period during which payment of such drafts, certificates, estimates and awards has been or shall be delayed or postponed by the state, in consequence of the non-appropriation of funds to pay such drafts, certificates, estimates and awards, but such interest shall cease whenever the auditor of the canal department shall give notice in the state paper that funds have been provided to pay the claims mentioned in this act.

§ 2. The interest authorized to be paid by this act shall be payable and paid out of any moneys appropriated or to be appropriated for the payment of the drafts, certificates, estimates and awards above specified.

§ 3. The provisions of this act shall not be deemed, taken or adjudged to alter, modify, change or repeal the provisions

of any law heretofore passed, authorizing the payment of interest by the state, and, notwithstanding the provisions of this act, no interest shall be paid upon the drafts, certificates, estimates and awards, made, dated, issued and given by any canal commissioner, engineer, the canal appraisers or canal board, since the first day of January, one thousand eight hundred and sixty-three.

【This act is temporary, and is now obsolete.】

(L. 1864, ch. 412; R. S., 8th ed., 2511.)

§ 8. The auditor aforesaid shall not grant permission to change the name or hailing place of any canal-boat, steam-tug, scow or other craft navigating the canals of this state, upon which there is an existing lien or mortgage filed in the canal department, unless it shall be necessary to make the name or hailing place conform to the United States custom-house regulations, by reason of a change of name on the canal, after having been registered at the custom-house; and any boat, steam-tug, scow, or other craft found navigating the canals of this state, the registered name or hailing place of which shall have been changed without the written permission of the auditor of the canal department, shall, upon due proof thereof, pay a fine not less than fifty nor more than three hundred dollars.

【This section is re-enacted in section 168 of the revision, without change in substance.】

(L. 1864, ch. 477, amends L. 1862, ch. 169.)

(L. 1865, ch. 727; R. S., 8th ed., 775.)

Section 1. The canal commissioners are hereby authorized and required to remove or cause to be removed from the land taken by the state for canal purposes, except those parts thereof that lie in the thickly built parts of cities, all encroachments thereon, whether in the shape of buildings, fences or other structures, except dry-docks authorized by the canal commissioners, or manufactories, mills or warehouses doing business upon the canal, that said lands may be kept in the possession of the state for the purposes of canal navigation. (Thus amended by L. 1866, chap. 657.)

【Re-enacted in section 75 of the revision, without change in substance.】

[L. 1866, ch. 657, amends L. 1865, ch. 727, § 1; R. S., 8th ed., 775.]

(L. 1866, ch. 836; R. S., 8th ed., 742.)

Section 1. No superintendent of repairs shall pay a higher price or compensation to any foreman, lock-tender or other subordinate

(L. 1866, ch. 836; R. S., 8th ed., 742.)

person necessary to enable him to discharge his official duties, nor for any double or single team, nor for any mechanical labor, than shall be fixed by the board of canal commissioners; and it shall be the duty of the said board of canal commissioners to fix, from time to time, the rate of compensation for the labor and service herein mentioned, and shall notify the several superintendents and the auditor of the canal department thereof, and no resolution of the said board increasing the rates of compensation for labor and service beyond a price previously fixed shall have a retroactive effect.

[By section 23, subdivision 4, the superintendent of public works fixes the compensation of all employes. This subdivision fully covers the material part of this section.]

§ 2. It shall be the duty of the auditor of the canal department to reject and refuse payment of any canal commissioner's draft or certificate, or any other claim against the state founded on a certificate or measurement of an engineer in the employment of the state, unless such estimate and measurement shall be sworn to and verified as provided in the second section of the act entitled "An act in relation to the public works and the officers connected therewith," passed March twelfth, eighteen hundred and forty-seven.

[Re-enacted in section 146 of the revision, without change in substance.]

The duties of the canal auditor were devolved upon the comptroller by L. 1883, ch. 69; R. S., 8th ed., 510.]

§ 3. No superintendent of canal repairs shall have any authority to contract for the delivery of or to purchase any tools, implements, materials, boats or other matter or thing to be used in the repairs of the canals, except upon the certificate of the canal commissioner in charge first had and obtained, designating the number and quantities, with the prices to be paid for such tools, implements, materials and boats; and every superintendent of repairs who shall violate the provisions of this section or who shall apply any of the moneys received by him upon a detailed estimate, to objects, works or purposes other than what is specially named and described in the detailed estimate upon which the moneys were advanced to him, shall be removed from office, and the canal board are hereby authorized and directed to hear and determine all complaints made against any superintendent of repairs for a violation of the provisions of this section, but the provisions of this section do not apply to sudden breaks and breaches in the canals during navigation, when the necessities of the case may call for immediate action before the canal commissioners can be consulted.

(L. 1866, ch. 836; R. S., 8th ed., 743.)

**[Re-enacted in section 138 of the revision, without change in substance.]**

§ 4. The canal board is hereby authorized to appoint two additional inspectors and measurers of lumber and timber and of boats and their cargoes, to be located in the city of New York, who shall possess all the powers and perform all the duties of such inspectors and measurers located upon the canals of this state, and may receive such compensation as shall be allowed by the canal board, not exceeding the compensation paid to other inspectors and measurers employed upon the canals.

**[Not re-enacted. Obsolete.]**

Sections 5-8 are merely amendatory.]

§ 9. It shall be the duty of the board to cause to be inserted in all contracts for work or repairs on the canals, a clause requiring the contractor to pay all damages arising to the state or to any individual, by reason of the negligence, default or misconduct of such contractor in the performance of such contract.

**[Re-enacted in section 133 of the revision, without change in substance.]**

(L. 1867, ch. 71; R. S., 8th ed., 743.)

Section 1. For the purpose of protecting the interests of the state in its property, revenue and tolls, the canal board is hereby authorized to appoint an inspector and measurer of lumber and of boats and their cargoes at Whitehall, in the county of Washington, who shall possess all the powers and perform all the duties now imposed by law upon such officers, and receive such compensation for his services as may be fixed by the canal board. In addition to the foregoing powers and duties, the said inspector shall have power and it shall be his duty to regulate and station all vessels, boats, rafts and other craft in the harbor of Whitehall, within the corporate limits of the village of Whitehall, and from time to time to remove such vessels, boats or other craft as may not be employed or detained in discharging or receiving cargoes or loading, to accommodate other vessels, boats or other craft to load or unload, and to prevent all vessels; boats, rafts and other craft from obstructing for an unreasonable length of time, the entrance of boats, rafts and other craft into the Champlain canal at Whitehall, aforesaid.

§ 2. The said inspector shall have power and it shall be his duty to determine, how far and in what instances the masters and others having charge of vessels, boats or rafts shall accommodate each other in their respective situations and locations in said harbor; and if any master or other person having charge or

(L. 1867, ch. 71; R. S., 8th ed., 743.)

control of any vessels, boats or rafts within the limits aforesaid, shall neglect or refuse to obey the directions of said inspector in matters within his authority, or if any person shall resist or oppose said inspector in the execution of the duties of his office, such person or persons shall, for every such offense, forfeit and pay the sum of twenty-five dollars, to be recovered with costs in the name of the people of the state of New York, in any court having cognizance of the same, and all moneys so collected shall be paid over to the collector of canal tolls at Whitehall, aforesaid, who shall account for and pay over the same to the treasurer of this state.

§ 3. All acts and parts of acts inconsistent herewith are hereby repealed.

【This act is re-enacted in section 178 of the revision, without change in substance.】

(L. 1867, ch. 752; R. S., 8th ed., 695.)

Section 1. The canal commissioners are hereby authorized to raise the state dam at Waterloo to, and maintain the same at a height not exceeding the height of the original state dam at that place, but so as not to raise the waters of Seneca lake above the natural height of the waters of said lake. And they are also authorized, when the bridge across the outlet of Seneca lake is rebuilt, to lower the same to a height no more than sufficient to pass the largest size canal boats.

§ 2. The expense of raising the said dam, not exceeding one thousand dollars, shall be paid out of any funds appropriated for extraordinary repairs of the middle division of the canals.

§ 3. No claim shall be made or entertained for any damages to land or property, by reason of restoring the said dam to its original height, by the provisions of this act.

【Sections 1, 3, are re-enacted in section 3 of the revision, without change in substance.】

Section 2 is temporary and is not re-enacted.】

(L. 1870, ch. 55; not published in R. S., 8th ed.)

Section 1. All laws and parts of laws requiring the letting and keeping the canals in repair by contract are hereby repealed, and the contracting board is hereby abolished. But the repeal of the said laws shall not, except as otherwise provided by this act, invalidate the contracts heretofore made, or discharge any of the contractors from the duties and obligations imposed by such contracts or the said laws, and the right of the said contractors to

(L. 1870, ch. 55; not published in R. S., 8th ed.)

receive from the state any pecuniary compensation or other relief under said contracts shall not be affected thereby.

§ 2. It shall be lawful for any contractor for repairs of the canals, under a contract heretofore made, to surrender to the canal board his said contract; and the said canal board shall, upon such surrender, accept the same, and from the time of such surrender and acceptance thereof the said contract shall be annulled, and the said contractor shall be discharged from all the obligations thereof.

§ 3. It shall be lawful for the canal board, upon the recommendation of the canal commissioners, whenever they shall deem it for the interests of the state, to cancel and annul any contract or contracts for repairs of the canals heretofore made, by a resolution to be entered in the minutes of the said board, and upon the entry of such resolution, such contracts as shall be thereby declared canceled and annulled shall be annulled, and the contractors discharged from all obligations to perform the same thereafter.

§ 4. The contractors who shall surrender their contracts, or whose contracts shall be canceled and annulled by the canal board, under the provisions of this act, shall not be entitled to demand or receive, and shall not be allowed for any prospective damages or any compensation for prospective or unearned profits, and shall be entitled to receive no compensation or damages except as provided by this act. Every contractor, the surrender of whose contract shall be accepted by the canal board, and every contractor whose contract, shall be canceled and annulled by the canal board, shall be entitled to receive the money deposited as a security for the performance of his contract, with the accumulated interest thereon, together with the money earned under such contract, and also for such amount or proportion of work, labor and services under the same for permanent improvements not heretofore provided for in this section as shall, in the judgment of the canal board, be equitable and just up to the time of the surrender or canceling and annulling thereof, and a full and fair compensation for the tools, materials and implements necessarily procured for the purpose of performing such contract, and which shall be delivered to the canal commissioner in charge of the division, for the use of the state.

§ 5. It shall be the duty of the canal board to settle with any contractor for the repair of any portion of the canals whose contracts shall be surrendered or canceled under the provisions of this act, and adjust the amount to be paid him in pursuance of the last preceding section, or, according to the terms of the contract, as the contractor may elect.

(L. 1870, ch. 55; not in R. S., 8th ed.)

§ 6. The canal board shall determine the method or system by which the repairs of the canals shall be made, and their management conducted, and fix the rate of compensation to be paid to any and all the officers which said board is now authorized by law to appoint. It shall be lawful for said board to appoint as many patrolmen, and fix the compensation to be paid them, as it shall deem necessary, to act as a police along the line of the canals, and whose duty shall be to compel the observance of the laws and regulations of the canal board relative to the canals. Said patrolmen shall be assigned to such parts of the canals as the commissioner in charge shall direct, and shall be subject to and under the control of the said commissioner, and the officer in charge of the repairs of such portion of the canal, and may be removed by said commissioner and other patrolmen appointed by him in their stead, which removal and appointment shall be reported to the canal board within thirty days, in case said board shall meet within that time or at its next meeting thereafter for action thereon, but nothing herein contained shall be construed as authorizing the canal board to enter into any new contracts for keeping the canals in repair.

§ 7. The canal board shall have power to make such rules and regulations in relation to the canals, and especially to carry out the provisions of this act, as shall be deemed expedient and shall not be inconsistent with law, and to impose the like penalties and forfeitures for a violation of such rules and regulations as are now authorized by law. Nothing in this act shall impair or detract from the power and duties of the canal commissioners in the performance of their duties; but they shall, upon their respective divisions which divisions shall not be changed or altered except with the consent and approval of the canal board, perform the duties and exercise the powers conferred upon them by law.

§ 8. This act shall take effect immediately.

**[This act is repealed, but not re-enacted. It is now obsolete.]**

(L. 1870, ch. 321; R. S., 8th ed., 736.)

Section 1. Jurisdiction is hereby granted to and conferred upon the canal appraisers to hear and determine all claims against the state of any and all persons and corporations for damages alleged to have been sustained by them from the canals of the state, or from their use and management, or resulting or arising from the negligence or conduct of any officer of the state having charge thereof, or resulting or arising from any accident or other matter

(L. 1870, ch, 321; R. S., 8th ed., 736.)

or thing connected with the canals; but no award shall be made unless the facts proved shall make out a case which would create a legal liability against the state were the same established in evidence in a court of justice against an individual or corporation; and in case such legal liability shall be satisfactorily established, then the appraisers shall award to the claimants such sum as shall be just and equitable, subject, however, to the right of appeal to the canal board in all cases, in the manner now provided by law; provided that the provisions of this act shall not extend to claims arising from damages resulting from the navigation of the canals.

【That part of this section referring to the allowing of claims for damages is re-enacted in section 37 of the revision. The procedure is regulated by L. 1883, ch. 205.】

§ 2. The claimants shall file their claims in the office of the canal appraisers within two years from the time said damages shall have accrued, but claims for damages which shall have accrued more than one year prior to the passage of this act shall be filed within one year from date hereof. The canal appraisers are hereby authorized and required to employ counsel on behalf of the state, on the hearing of such claims, as may be necessary to protect the interests of the state. All acts or parts of acts inconsistent with this act are hereby repealed.

§ 3. The said board of canal appraisers shall prescribe rules as to the form and manner in which claimants shall make out and verify their statement of claims; and they shall provide a general rule for the taking of evidence when the witness shall not be examined orally before said board, and for reducing to writing and preserving said evidence when taken. The said board is hereby authorized to issue subpoenas for the attendance of witnesses, and shall have power to compel their attendance by attachment, and to punish them for contempt, in the same manner as is now provided by law in relation to courts of record; and the said board shall also have power to administer oaths to witnesses, and to issue commissions for the examination of witnesses residing out of the state.

【Sections 2, 3, are obsolete and are not re-enacted.】

(L. 1870, ch. 576; R. S., 8th ed., 765.)

Section 1. Permission is hereby granted to Addison M. Farwell, of Watertown, New York, his associates and successors, who may organize a corporation under the act entitled “An act to authorize the formation of corporations for manufacturing, mining, mechani-

(L. 1870, ch. 576; R. S., 8th ed., 765.)

cal and chemical purposes," passed February seventeenth, eighteen hundred and forty-eight, and any act or acts amendatory thereof, to introduce upon the canals of this state the "European system" of steam towing.

§ 2. The said Farwell, his associates and successors, who shall organize as provided in previous section, are hereby authorized and empowered to tow boats, floats and cargoes on the canals of this state for hire, and for that purpose may purchase and construct, or cause to be constructed, the necessary appliances for carrying on the business of canal towing under the said European method, and shall have the exclusive right and privilege, during the term for which said corporation may be organized, to submerge or place one or more chains or cables on the bottom of the canals of this state, and attach the same thereto in such manner as will not interfere with navigation; and shall have the exclusive right to use such submerged chains and cables, designated and known as the European system, in the prosecution of the peculiar method of towing thereby. And whenever and wherever it may be necessary so to do, the said Farwell, his associates and successors, or corporation aforesaid, are hereby authorized and empowered to own and employ other motive power in connection with said chain or cable process, provided the same shall not interfere with navigation. Nothing, however, in this section contained shall be construed as excluding other parties from the right or privilege of propelling or towing themselves or others by the agency of steamboats, propellers, elevated railway or animal power, but simply to vest in the said Farwell, his associates and successors, or corporation organized as aforesaid, the exclusive right to lay and use chains or cables in the prosecution of the European system of towing thereby.

§ 5. In case said Farwell, his associates and successors, or corporation aforesaid, shall neglect or fail to introduce said system of towing on the Erie canal within eighteen months after the passage of this act, all rights and privileges herein granted shall cease.

§ 6. Nothing herein contained shall be construed to exclude the system of towage hereby authorized from the supervision and control of the canal board; but the same shall be subject to all the rules and regulations from time to time established by the canal board for the navigation of the canals.

§ 7. The legislature may, at any time, alter, modify or repeal this act.

[This act is temporary and has become obsolete. It is repealed and not re-enacted.]

(L. 1870, ch. 655; R. S., 8th ed., 766.)

Section 1. Permission is hereby granted to Norman W. Kingsley of New York and Charles H. Gardner of Brooklyn, their associates and successors, who may organize a corporation under the act entitled "An act to authorize the formation of corporations for manufacturing, mining, mechanical and chemical purposes," passed February seventeenth, eighteen hundred and forty-eight, and any act or acts amendatory thereto, to introduce upon the canals of this state an improved system of steam towage, by the use of chains, cables or rails suspended over the canal, under a patent or patents to be held or acquired by said corporation, with the exclusive right to use the said system thereon, during the full term for which the said corporation may be organized.

§ 2. The said Norman W. Kingsley, Charles H. Gardner, their associates and successors, as heretofore specified, are hereby authorized and empowered to transport cargoes, and to tow boats and floats, loaded or unloaded, for hire upon the canals of this state, at a rate of speed not exceeding four miles per hour, and which shall not work injury thereto, and for such purpose may purchase, construct, erect and use thereon, such boats, boilers, engines, apparatus, suspended rails, chains or cables and machinery as shall be necessary to apply and operate said improved system of steam towage, in such manner as shall not interfere with navigation on said canals. Nothing, however, in this section contained shall be construed as excluding other parties from the right or privilege of propelling or towing any boat or float upon the canals of this state by the agency of steamboats, propellers, tugs, chains, cables, elevated railways, engines or animal power, but simply to vest in the said Norman W. Kingsley, Charles H. Gardner, their associates and successors, or corporation organized as aforesaid, the exclusive right to apply and operate the said improved system of towage.

[Section 3 omitted as obsolete.]

§ 4. In case the said Norman W. Kingsley, Charles H. Gardner, their associates and successors, or corporation aforesaid, shall neglect or fail to introduce said system of towing on the Erie canal within three years after the passage of this act, all rights and privileges herein granted shall cease. (Thus amended by L. 1871, chap. 903.)

§ 5. Nothing herein contained shall be construed to exclude the system of towage hereby authorized from the supervision and control of the canal board, but the same shall be subject to all the rules and regulations established, and to be established by the canal board for the navigation of the canals.

(L. 1870, ch. 655; R. S., 8th ed., 766.)

§ 6. The legislature may, at any time, alter, modify or repeal this act.

【Entire act is obsolete and is repealed and not re-enacted.】

(L. 1870, ch. 656; R. S., 8th ed., 764.)

Section 1. The canal board is hereby authorized to adopt the "Reims Champion Boat Scale," in place of the present system of weighing boats and cargoes on the canals of this state, if they are fully satisfied from tests already made, or from further tests as they shall deem necessary, that the interests of the state will be subserved thereby, and they are hereby empowered to contract with the owners of the "Reims Champion Boat Scale," for the use of said scale on the various canals of the state.

§ 2. The state treasurer shall pay, on the warrant of the auditor of the canal department or the comptroller, out of any funds appropriated for canal purposes, the moneys necessary to carry out the first section of this act.

【This act is obsolete. It is not re-enacted.】

(L. 1871, ch. 868; R. S., 8th ed., 766.)

Section 1. George B. McClellan, Horatio Seymour, Erastus S. Prosser, David Dows, George Geddes, Van R. Richmond, Willis S. Nelson, George W. Chapman, William W. Wright and John D. Fay are hereby appointed a commission to practically test and examine inventions, or any and all devices which may be submitted to them for that purpose, by which steam, caloric, electricity, or any other motor than animal power, may be practically and profitably used and applied in the propulsion of boats upon the canals; said examination and tests shall be had by the said commissioners at such time or times during the season of canal navigation, for the year eighteen hundred and seventy-one and seventy-two, as they may order and direct; said commissioners shall have the right, and they are hereby expressly required to reject all such inventions or devices, if in their opinion none of the said inventions or devices shall fully and satisfactorily meet the requirements of this act; but said commissioners shall demand and require: First. The inventions and devices to be tested and tried at their own proper costs and charges of the parties offering the same for trial. Second. That the boat shall, in addition to the weight of the machinery and fuel reasonably necessary for the propulsion of said boat, be enabled to transport, and shall actually transport, on the Erie canal on a test or trial exhibition, under the rules and regulations now governing the boats now navigating the canals at least two hundred tons of cargo. Third. That the rate of

(L. 1871, ch. 868; R. S., 8th ed., 767.)

speed made by said boat shall not be less than an average of three miles per hour, without injury to the canals or their structures. Fourth. That the boat can be readily and easily stopped or backed by the use and power of its own machinery. Fifth. That the simplicity, economy and durability of the invention or device must be elements of its worth and usefulness. Sixth. That the invention, device or improvement can be readily adapted to the present canal boats; and, lastly, that the commissioners shall be fully satisfied that the invention or device will lessen the cost of canal transportation and increase the capacity of the canals. Any means of propulsion or towage other than by a direct application of power upon the boat which does not interfere in any manner with the present method of towage on the canals, and complying in all other respects with the provisions of this act, may be entitled to the benefits thereof; but this shall not be construed to apply to the system known as the Belgian system, or to any mode of propulsion by steam engines or otherwise upon either bank of the canal.

§ 2. No such test shall be made if the same shall in any manner retard, hinder or delay the passage of boats navigating the canals under the present system.

§ 3. If the commissioners herein appointed shall, upon such examination and test as is provided for in the first section of this act, conclude and determine at any time that one or more inventions or devices aforesaid, but not to exceed three in number, shall be in all respects a full and satisfactory, practicable and profitable adaptation to the wants of the canals by reason of a new, useful and economical means of propulsion for boats within the meaning of this act, it shall then, and not otherwise, be their duty to grant unto the owner or owners of such inventions or devices, his or their attorney, their certificate or certificates under their hands as such commissioners, that they have so determined and adjudged to the owner or owners of the invention or device which in the judgment of said commissioners, possesses in the greatest degree of perfection the requisites mentioned in the first section, they shall grant a certificate which shall be known as certificate No. one; and to the owner or owners of the next best invention or device they shall grant a certificate as aforesaid, which shall be known as certificate No. two; and to the owner or owners of the third best invention or device they shall grant a certificate as aforesaid, which shall be known as certificate No. three.

§ 4. Before entering upon the duties of his office each commissioner herein named shall take and subscribe an official oath, which shall be filed at once in the office of the secretary of state. Any vacancy arising from any cause in said commission, may be

(L. 1871, ch. 868; R. S., 8th ed., 767.)

filled, on the application of the remaining commissioners, by the governor.

§ 5. The reasonable expenses of the said commission, not exceeding in all the sum of five thousand dollars, to be determined by the said board, shall be paid out of any sum which may be awarded to the person or persons receiving the certificates mentioned in the third section of this act, in proportion to the amount awarded to the holders of said certificates, provided such certificates shall be granted; and if no such certificates shall be granted, then the same shall be paid by the treasurer on the warrant of the comptroller out of any moneys in the treasury not otherwise appropriated.

§ 6. Upon the production by the owner or owners, or his or their attorney, of such certificate or certificates as may be granted under the provisions of this act, to the comptroller, he shall draw his warrant upon the treasurer of the state of New York for the sum of fifty thousand dollars, payable to the said owner or owners of said invention, device, his, or their attorney, out of any money in the treasury not otherwise appropriated, in case but one certificate shall have been granted by said commissioners. If two certificates shall have been granted, and no more then the said comptroller shall draw his said warrant upon the said treasurer for the sum of thirty-five thousand dollars, payable to the owner or owners of certificate No. one; and said comptroller shall also draw his said warrant upon the said treasurer for the sum of fifteen thousand dollars, payable to the owner or owners of certificate No. two. If three certificates shall be granted by said commissioners, then and in that case the said comptroller shall draw his said warrant upon the said treasurer for the sum of thirty thousand dollars, payable to the owner or owners of certificate No. one; and one of fifteen thousand dollars, payable to the owner or owners of certificate No. two; and one of five thousand dollars, payable to the owner or owners of certificate No. three.

§ 7. If, on or before the first day of November, eighteen hundred and seventy-three, the commissioners hereinbefore named shall, upon due examination, find and determine that the said invention or device has been successfully operated upon the canals, and has been or will be largely adopted as a motor on said canals by reason of its superiority over any other known method of propulsion, then and in such case they shall grant a further certificate of that fact, and the comptroller, upon its presentation to him shall draw his warrant upon the treasurer of the state for the further sum of fifty thousand dollars, payable to the said owner or owners of the said device, his or their

attorney, out of any money in the treasury not otherwise appropriated; but in case of the granting by said commissioners of more than one certificate, as stated in section six of this act, then and in that case the sum of fifty thousand dollars, mentioned in this section, shall be divided among and paid to the owners of the said certificates in the proportion and in the manner as stated in section six of this act.

【This act being temporary is now obsolete. It is repealed and not re-enacted.】

(L. 1871, ch. 911; R. S., 8th ed., 769.)

Section 1. Permission is hereby granted to James Richmond and William S. Farnell, of the city of Lockport, New York, their associates and successors, who may organize a corporation under the act entitled "An act to authorize the formation of corporations for manufacturing, mining, mechanical and chemical purposes," passed February seventeenth, eighteen hundred and forty-eight, and any act or acts amendatory thereof, to introduce upon the canals of this state an improved system of cable towage, under a patent or patents to be held or acquired by said corporation, with the exclusive right to use the said system thereon, during the full term for which the said corporation may be organized.

§ 2. The said James Richmond, William S. Farnell, their associates and successors, as heretofore specified, are hereby authorized and empowered to transport cargoes, and to tow boats and floats, loaded or unloaded, for hire, upon the canals of this state, at a rate of speed not exceeding four miles per hour, and which shall not work unusual and permanent injury thereto; and for such purpose may purchase, construct, erect and use thereon, such boats, boilers, engines, apparatus, chains, cables, structures and machinery, as shall be necessary to apply and operate said improved system of cable towage, in such manner as shall not interfere with navigation on said canal. Nothing, however, in this section contained, shall be construed as excluding other parties from the rights or privileges of propelling or towing any boats or floats upon the canals of this state, by the agency of steamboats, propellers, tugs, chains, cables, elevated railways, engines or animal power, but simply to vest in the said James Richmond and William S. Farnell, their associates and successors, or corporation organized as aforesaid, the exclusive right to apply and operate the said improved system of cable towage.

【Section 3, relating to tolls, omitted.】

§ 4. In case the said James Richmond, William S. Farnell, their associates and successors, or corporation aforesaid, shall

(L. 1871, ch. 911; R. S., 8th ed., 769.)

neglect or fail to introduce said system of towage on the Erie canal, within eighteen months after the passage of this act, all rights and privileges herein granted shall cease.

§ 5. Nothing herein contained shall be construed to exclude the system of towage hereby authorized from the supervision and control of the canal board, but the same shall be subject to all the rules and regulations established, and to be established, by the canal board for the navigation of the canals.

§ 6. The legislature may, at any other time, repeal, alter or modify the provisions of this act.

【Not re-enacted; temporary, and is now obsolete.】

(L. 1872, ch. 550; R. S., 8th ed., 769.)

Section 1. The canal commissioners are hereby authorized and directed to allot and set out to D. O. Williamson a distance on the Erie canal of not less than five miles, at such point as may be most convenient and suitable, for the purpose of experimenting with his road steam engine for the towage of boats, said experiments being made under the direction of said commissioners.

【Obsolete. Repealed and not re-enacted.】

(L. 1873, ch. 480; R. S., 8th ed., 768.)

Section 1. Chapter eight hundred and sixty-eight of the laws of eighteen hundred and seventy-one, entitled "An act to foster and develop the internal commerce of the state, by inviting and rewarding the practical and profitable introduction upon the canals of steam, caloric, electricity, or any motor other than animal power, for the propulsion of boats," is hereby amended so as to continue the powers of the commissioners appointed therein one year beyond the time limited by sections one and seven of said act.

【Obsolete. Repealed and not re-enacted.】

(L. 1874, ch. 172, amends L. 1853, ch. 52, § 1.)

(L. 1876, ch. 385; R. S., 8th ed., 726.)

Section 1. Hereafter the division and resident engineers employed on the canals of the state, and all assistant engineers and other persons employed to assist them in the performance of their duties, shall be appointed by the state engineer and surveyor. The state engineer and surveyor shall have power to remove any person appointed under this act. The recognized grades of officials appointed under this act shall be as follows: Division engineer, resident engineer, assistant engineer, leveller, rodman and chainman.

(L. 1876, ch. 385; R. S., 8th ed., 726.)

§ 2. In case it may be deemed necessary by the state engineer and surveyor, but not otherwise, at any time to employ additional engineers or other persons to assist the division and resident engineers in the performance of their duties, the same may be done by him with the consent of the canal board, and all appointments to such employment shall be made in the manner prescribed in the first section of this act.

[Re-enacted in section 51 of the revision, without change in substance.]

§ 3. It shall be the duty of the canal board to fix the salary or rate of compensation of every person appointed under this act.

[The compensation of engineers is, by section 62 of the Executive Law, to be fixed by the state engineer.]

§ 4. The division engineer may draw his draft upon the auditor of the canal department for any sum to be advanced to him to meet the expenses of the engineer department on his division of the canals; but every such draft shall be countersigned by the state engineer and surveyor, and if the bond of the division engineer shall have been duly filed in the office of the auditor, and a receipt for such sum shall also be filed in the same office, it shall be the duty of the auditor to pay such draft by drawing his warrant on the treasurer of the state in favor of such division engineer, provided the advances to such division engineer, unaccounted for, shall at no time exceed the sum of five thousand dollars. No money shall hereafter be drawn from the state treasury to meet the expenses of the engineer department, other than those pertaining to the office of the state engineer and surveyor, in any other manner than is herein prescribed.

§ 5. The division engineers of the several divisions of the canals shall, once in ninety days, beginning on the first day of each fiscal year, render accounts of their disbursements, with sworn vouchers for the same, to the state engineer and surveyor, who shall examine them, and if he finds them correct, he shall forward them, with his approval, to the auditor, who shall audit them; and if any division engineer shall omit to render his account, or his account as rendered be not satisfactory, the auditor shall notify the state engineer and surveyor and the commissioners of the canal fund of the fact, and no further advances shall be made to such division engineer until he shall have satisfactorily explained to the state engineer and surveyor and the commissioners of the canal fund, his omission to render proper accounts. It shall be the duty of the auditor to prepare such blank forms, and to prescribe such rules as may be required to facilitate the rendering and insure the uniformity of the accounts directed to be made by this act.

(L. 1876, ch. 385; R. S., 8th ed., 727.)

§ 6. In case of the absence or inability to act, of a division engineer, the resident engineer of his division may discharge all the duties of such division engineer.

[Sections 4, 5, 6, respectively, are re-enacted in sections 54, 55 and 56 of the revision, without change in substance.]

§ 7. Every person appointed under this act shall take and subscribe the constitutional oath of office, which shall be filed in the office of the secretary of state, and all accounts rendered and estimates made by the division and resident engineers upon which moneys may be drawn from the treasury of the state, must be sworn to by the said division and resident engineers and the assistant engineers, who may be employed to assist them in making the same, in such forms as may be prescribed by the assistant engineers, who may be employed to assist them in making the same, in such forms as may be prescribed by the auditor. And every division and resident engineer appointed under this act, shall, before entering upon the duties of his office, file in the canal department his bond, duly executed, to the people of the state, in such sum and with such surety for the faithful discharge of his duties, not exceeding in each case the sum of twenty thousand dollars, as the auditor shall approve. No money shall be advanced to any division or resident engineer, nor shall any account of moneys disbursed by him be audited, until the provisions of this section shall have been fully complied with.

§ 8. The expenses of the engineer department, other than those of the office of the state engineer and surveyor, shall be paid out of the funds appropriated by the legislature for the repairs and maintenance of the canals.

§ 9. So much of all laws and parts of laws as conflict with the provisions of this act or authorize the appointment or employment of the officers or persons whose appointment or employment is herein provided for, are hereby repealed.

§ 10. It shall be the duty of the auditor to publish quarterly in the state paper the names of the engineers employed under the grade of resident engineer.

[Sections 7, 8 are re-enacted in section 51 of the revision, with such changes as are necessary to conform to the law abolishing the office of canal auditor.

Section 9 is omitted.

Section 10 is re-enacted in section 51 of the revision, without change in substance.]

(L. 1876, ch. 387; R. S., 8th ed., 770.)

Section 1. The canal commissioners are hereby authorized and directed to allot and set out to Hugh Stevenson and Enos W.

Peloubet, and to each of them, a distance on the Erie canal of not less than five miles, at such point as may be most convenient and suitable, for the purpose of experimenting with his or their method of steam canal-boat propulsion. Said experiments to be under the direction of the said commissioners and at the expense of the said Hugh Stevenson and Enos W. Peloubet, respectively, provided that the navigation of the canal for the purposes of commerce be not interfered with.

**[Repealed and not re-enacted; temporary.]**

(L. 1876, ch. 388; R. S., 8th ed., 744.)

Section 1. The canal board shall have power to investigate all matters and transactions, including those of the past, connected with or pertaining to the canals of this state.

§ 2. Whenever the canal board shall wish to examine any person as a witness upon any subject or matter connected with or pertaining to the affairs of the canals of this state, or shall wish to use, inspect or examine any book, account, voucher, document or writing in the possession of any person or under his control, relating in any manner to the affairs of the canals of this state, the chairman, of the canal board, or, in the absence of the chairman, any member of the canal board shall issue a subpoena commanding such person to appear before the canal board at a time and place therein specified, to be examined as a witness, and such subpoena may contain a clause requiring such person to produce on such examination any book, paper, document, or writing in his possession or under his control relating in any manner to the affairs of the canals of this state. The examination of any witness by or before said canal board shall be open and public whenever such witnesses shall request that such examination shall be publicly conducted. Whenever any person shall be examined as a witness under the provisions of this chapter he may, if he desires, be attended by council, who may ask any pertinent question of such witness, and his answers thereto shall be reduced to writing by such board as a part of the deposition of such witness. Whenever in the opinion of the canal board, it shall be necessary for the public good to examine the witnesses separately, they may, on the examination of any witness, exclude all other witnesses subpoenaed on the same matter during such examination.

§ 3. Any person may serve, and it shall be the duty of any sheriff, or any deputy sheriff or constable, to whom the subpoena may be delivered for service, to serve the same upon the person or persons named therein, by showing the original and delivering a

(L. 1876, ch. 388; R. S., 8th ed., 744.)

copy thereof; the official certificate of the sheriff, deputy sheriff, or constable, or the affidavit of any other person, of the time and place of the service of such subpoena, shall be prima facie evidence of such service. The auditor of the canal department shall pay, out of any moneys appropriated for canal purposes, upon the order of the canal board, any expenses incurred in carrying out the provisions of this act. All evidence taken under the provisions of this act shall be filed in the office of the attorney-general.

§ 4. Whenever any person duly subpoenaed to appear and give evidence, or to produce any book or paper, as herein provided, shall neglect or refuse to appear, or to produce such book or paper according to the command of such subpoena, or to allow an inspection of the same, or shall refuse to testify before such board or to answer any question which a majority thereof shall decide to be proper and pertinent, he may be proceeded against as for contempt, and it shall be the duty of the chairman of the board, or, in the absence of such chairman, it shall be the duty of any member of such board to report the facts by affidavit, verified by one of the members of said board, to the county judge of the county where such examination was had or to any judge of the supreme court in such judicial district, or of any superior court of any city in such county, who shall thereupon issue an attachment in the form usual in the court of which he shall be a judge, directed to the sheriff of the county where such witness may be, commanding the said sheriff to attach such person and forthwith bring him before the judge by whose order such attachment was issued. In case the misconduct alleged shall be the refusal to answer a question, it shall appear by said affidavit that such question was proper and pertinent; and, in case the misconduct alleged is the refusal or neglect to produce any book or paper, said affidavit shall state upon the knowledge or the information and belief of the person making the same, that the production of such book or paper is material and necessary.

§ 5. The officer to whom such attachment shall be delivered shall execute the same by arresting and keeping the witness in his custody, and forthwith bringing him personally before the judge and detaining him in his custody until the order of the judge.

§ 6. When any witness arrested upon such attachment shall be brought before the judge who shall have issued the same, the judge shall cause interrogatories to be filed, specifying the facts and circumstances alleged against the witness and requiring an answer thereto; to which the witness shall make written

(L. 1876, ch. 388; R. S., 8th ed., 745.)

answers on oath within reasonable time as the judge shall allow. The judge may receive any affidavits or other proofs contradictory of the answers of the witness or in confirmation thereof; and upon the original affidavits, such answers and such subsequent proof shall determine whether the witness has been guilty of the misconduct alleged.

§ 8. Whenever an attachment shall have been issued according to the provision of this act and shall not have been returned, the board shall when it adjourns, adjourn to a time and place certain which time shall not be more than ten days for any one adjournment, of which notice shall be given by the chairman to the judge before whom the said attachment shall be returnable, and in such case if the person against whom it issued shall be arrested he may give a bond to the people of the state of New York in a penalty to be fixed by the judge, not less than one thousand dollars, with two sufficient sureties to be approved by the said judge, with a condition that he will appear before such board at the time and place to which it shall have been adjourned, and will then and there perform such act or duty as such judge shall direct to be named in such bond, and for the refusal to perform which he is in custody; said bond shall not be taken, however, until the witness shall first have paid all costs and expenses incurred by reason of his contempt.

§ 9. Such bond shall be filed in the office of the comptroller of the state, and if default be made in the condition thereof it shall be the duty of the attorney-general to sue for and collect the penalty of the same, and the money, when received, and all costs and expenses which shall be collected by virtue of the provisions of this act shall be paid to and retained by the attorney-general and may be used by him and shall be accounted for by him in the same manner as costs collected in actions conducted by the attorney-general.

§ 10. All orders, decisions and judgments made and given in proceedings under this act shall be filed in the office of the clerk of the county where such proceedings are had, and the clerk shall thereupon enter the proper orders and judgments, and such orders, decisions and judgments shall have the like force and effect as if made and given by the court at a regular term or session thereof.

§ 11. Any member of the canal board shall have power to administer oaths and affirmations to witnesses to be examined before such board.

§ 13. No person sworn under the provisions of this act shall be excused from testifying on the ground that his evidence would

tend to criminate or degrade him; but the testimony of any witness examined under the provisions of this act, shall not be used against him on the trial of any indictment or criminal prosecution other than for perjury committed on such examination.

【Section 1 of this act is re-enacted in section 10 of the revision, without change in substance. The remainder of this act is superseded by the Code of Civil Procedure, section 854ff, and is, therefore, repealed without re-enactment.】

(L. 1877, ch. 85; R. S., 8th ed., 536.)

Section 1. The superintendent of public works, to be appointed by the governor, by and with the advice and consent of the senate, shall receive a salary of six thousand dollars per annum, together with all traveling expenses necessarily and actually incurred, to be audited, allowed and paid monthly by the auditor of the canal department. Before he shall enter upon the duties of his office, he shall take and subscribe the constitutional oath of office and file the same in the office of the secretary of state, and shall execute a bond to the people of this state, in the penal sum of fifty thousand dollars, with two or more substantial freeholders of this state as sureties, who shall, in the aggregate, justify in double the amount of the penalty of said bond, conditioned for the faithful discharge of the duties of his office and for truly accounting for all moneys intrusted to him as such superintendent, which bond shall be subject to the approval of the auditor, and when so approved shall be filed in the office of the auditor, and shall be renewed whenever and as often as the same shall be required by the governor. And said superintendent of public works, as a member of the canal board, shall be entitled to one vote only.

§ 2. The assistant superintendent or superintendents to be appointed by the superintendent of public works shall each receive a salary of three thousand dollars per annum, together with all necessary travelling expenses, to be audited, allowed and paid monthly by the auditor of the canal department by his warrant upon the treasurer. Before either of them shall enter upon the duties of his office he shall take and subscribe the constitutional oath of office, and file the same in the office of the secretary of state, and shall execute a bond to the people of this state, in the penal sum of twenty thousand dollars, with two or more substantial freeholders of this state as sureties, who shall in the aggregate justify in double of the amount of the penalty of the bond, conditioned for the faithful discharge of the duties of his office, and for truly accounting for all moneys intrusted to him as such assistant superintendent, which bond shall be subject to the

(L. 1877, ch. 85; R. S., 8th ed., 536.)

approval of the auditor, and when so approved shall be filed in the office of the auditor, and shall be renewed whenever and as often as the same shall be required by the superintendent of public works.

【Both sections of this act are respectively re-enacted in sections 20 and 21 of the revision.

The provisions of Public Officers Law, sections 10, 11, also apply to the oaths and undertakings of the superintendent of public works and his assistants.】

(L. 1877, ch. 366; R. S., 8th ed., 770.)

Section 1. Permission is hereby granted to "The Stevenson Steam Canal Boat Company," its successors and assigns, to introduce upon the Erie canal the Stevenson traction system of towage under a patent held by the said corporation, and under any amendments or improvements which may be made thereto, with the right to use the said system on the said canal.

§ 2. The said Stevenson Steam Canal Boat Company, its successors and assigns, are hereby authorized and empowered to tow boats, loaded or unloaded, for hire, upon the said Erie canal, at a rate of speed not exceeding four miles per hour, and which shall not work unusual or permanent injury thereto, and for such purpose shall have the right and privilege to build, construct, erect and maintain in and upon the berme bank of the Erie canal such structures as shall be necessary and proper to apply and operate the said Stevenson traction system of towage in such manner as shall not interfere with navigation on the said canal, and may construct, maintain and use on said canal such boats, boilers, engine, apparatus, structures and machinery as shall be necessary and proper to apply and operate the said Stevenson traction system of towage in such manner as shall not interfere with navigation on said canal, but no structure shall be erected contrary to the instructions of the canal commissioners or superintendent of public works, nothing, however, in this section contained shall be construed as excluding other parties from the rights or privileges of propelling or towing any boats or floats upon the said Erie canal by the agency of steamboats, propellers, tugs, chains, cables, engines, or other rail or traction system or animal power, but simply to invest in the said corporation, its successors and assigns, the right and privilege to apply and operate the said Stevenson traction system of towage.

§ 3. The machinery, engines and boilers used in pursuance of this act, the boats carrying the same, and the fuel and materials necessarily used in propelling the necessary boats and machinery

(L. 1877, ch. 366; R. S., 8th ed., 770.)

to operate the said towage system, shall be exempt from the payment of tolls upon the said Erie canal, but in no case shall fuel or material be exempt from the payment of tolls except when on boats actually using the said fuel and materials.

§ 4. In case the said Stevenson Steam Canal Boat Company, its successors or assigns, shall neglect or fail to introduce said system of towage on the Erie canal within two years after the passage of this act, all rights and privileges herein granted shall cease, and said company shall remove all structures erected by them on the bank of the canal if required to do so by the canal board.

§ 5. The system of towage hereby authorized shall be subject to the supervision and control of the canal board, and the same shall be subject to all the rules and regulations established, and to be established, by the canal board for the navigation of the canals.

§ 6. The legislature may at any time, alter or modify the provisions of this act, or revoke any of the privileges hereby conferred.

**[This entire act is now obsolete and has been repealed and not re-enacted.]**

(L. 1877, ch. 371; R. S., 8th ed., 771.)

Section 1. The canal commissioners are hereby authorized to allot a distance on the Erie canal of five miles, which shall present such difficulties as are likely to be encountered, and to allow Halsey H. Baker, inventor and patentee, to practically test his single-rail system of steam towage for canals.

§ 2. If such test of said system be satisfactory to a majority of said commissioners in all essential requirements, and they shall deem its introduction on the canals best for the interests of the state, they shall so certify, and thereupon said Halsey H. Baker, and those whom he may associate with him, are hereby authorized and empowered to apply and operate said system on the canals of this state in such manner as shall least interfere with animal, steam or other systems of towage, under such reasonable requirements as shall be made by said commissioners.

§ 4. The rights and privileges hereby granted shall cease, if within two years after such certification, said system shall not be introduced on the Erie canal.

§ 5. Nothing herein contained shall be construed to exclude the system of towage hereby authorized from the supervision and control of the canal board, but the same shall be subject to all the rules and regulations established and to be established by the canal board for the navigation of the canals.

(L. 1877, ch. 371; R. S., 8th ed., 771.)

§ 6. The legislature may at any time repeal, alter or modify the provisions of this act.

【The rights and privileges granted by this act have ceased. It is, therefore, repealed and not re-enacted.】

(L. 1879, ch. 152; R. S., 8th ed., 728.)

Section 1. Whenever, in the judgment of the superintendent of public works, any of the earth structures of the canals of the state need to be raised, widened, strengthened or otherwise improved, the superintendent of public works is hereby authorized to enter upon and permanently appropriate, to the use of the state, so much of any lands, adjacent to the canals, as may be necessary to provide earth and gravel for such purposes.

§ 2. Claims for damages, by reason of the appropriation of land under section one of this act, may be adjusted and paid by the superintendent of public works, if the amount thereof can be agreed upon with the owner or owners of land so appropriated; otherwise said claims shall be heard and determined, in the same manner as other claims now are, by the board of canal appraisers.

【Re-enacted in section 71 of the revision, without change in substance.】

(L. 1879, ch. 269; R. S., 8th ed., 751.)

Extract from § 1. The surplus waters in the western portion of the Rome level of the Erie canal shall at all times of the year be discharged through the culverts of the locks at the western end of said level, so far as the capacity of said culverts will permit, and in no case, except to guard against danger to the banks of the canal, in the discretion of the superintendent of public works, shall any such surplus waters of said level be discharged into the channels of Limestone and Butternut creeks. (Thus amended by L. 1884, chap. 294.)

【The remainder of this statute is omitted as temporary.

Re-enacted in section 99 of the revision, without change in substance.】

(L. 1879, ch. 331; R. S., 8th ed., 728.)

Section 1. The superintendent of public works is hereby authorized to designate two clerks in the office of said superintendent in the city of Albany, and one clerk in the office of each assistant superintendent of public works, on the three divisions of the canals, and one or more special agents in said department of public works, who shall have power to administer oaths in any county of the state in matters pertaining to canal business only, where oaths now are or may be required by law to be taken, and

(L. 1879, ch. 331; R. S., 8th ed., 728.)

oaths so taken and subscribed before said clerks or special agents shall be of like force and effect as though taken before a notary public in the county where such oath is administered; and the services rendered in pursuance of this act shall be without any fees or compensation therefor. (Thus amended by L. 1885, chap. 92.)

§ 2. Each clerk or special agent so designated, shall, before entering upon the discharge of the duty created by this act, file his signature with the comptroller of the state and his oath of office with the clerk of the county in which he resides. (Thus amended by L. 1885, chap. 92.)

[Re-enacted in section 30 of the revision, without change in substance, except that in such section the further power of taking acknowledgments is inserted.]

(L. 1880, ch. 99, amends R. S., pt. I, ch. IX, tit. 9, §§ 17, 18; R. S., 8th ed., 717.)

(L. 1880, ch. 161; R. S., 8th ed., 737.)

Section 1. Power is hereby given the board of canal appraisers in furtherance of justice, without terms, to allow amendments to claims now or hereafter filed in their office, at the same time and in the same manner as amendments are allowed to pleadings in the supreme court, but no additional claim for damages shall be allowed under this act; provided, however, that no claim barred by the provisions of section two of chapter three hundred and twenty-one of the laws of eighteen hundred and seventy shall be revived under or by virtue of this act.

[Obsolete; power now vested in board of claims, by L. 1883, ch. 205.]

(L. 1880, ch. 493; R. S., 8th ed., 728.)

Section 1. The superintendent of public works shall have the power, and it shall be his duty, to provide all necessary tools, materials and labor for the repair and navigation of the canals, and for the construction and improvement of the canals. The superintendent shall make payment monthly for all tools, materials and labor provided by him for account of the canals; payment therefor shall be made on or before the fifteenth of every month for tools, materials and labor provided for the preceding month.

§ 2. The superintendent of public works shall have the power to divide the canals into such subdivisions or sections as he may deem advisable, and make all necessary rules and regulations for the government of all employees engaged by him in the repair

(L. 1880, ch. 493; R. S., 8th ed., 729.)

and navigation of the canals, and in the construction and improvement of the canals, also all necessary rules and regulations to provide for the payment for tools, materials and labor, and to fix the compensation for the services of all officers and employees appointed by him when the salary is not fixed by law. The schedule of prices when fixed shall be filed with the auditor of the canal department.

[Re-enacted in section 23 of the revision, without change in substance.]

§ 3. Before any advance of money shall be made to a superintendent of canal repairs, he shall make out a detailed statement, covering a period of two months, in such form as the superintendent of public works shall prescribe, of the several proposed objects of expenditure on the line of canal under his charge. After the said estimates are filed in the office of the auditor of the canal department, with the certificate of approval thereon of the superintendent of public works, the auditor of the canal department shall make advances thereon, provided that such advances shall not exceed the amount certified by the superintendent of public works. (Thus amended by L. 1881, chap. 27.)

[Re-enacted in section 27 of the revision, without change in substance.]

§ 4. When construction or improvement work shall be ordered by the legislature or canal board to be done upon any of the canals of this state, the state engineer and surveyor shall make, or cause to be made, all surveys, maps, plans, specifications and estimates that may be required by the canal board, or by the superintendent of public works, to determine the proper location of the line of the canal, or any portion thereof, or that may be necessary preparatory to commencing any work of construction or improvement; and shall transmit a copy thereof to the superintendent of public works, and to the canal board, with his approval indorsed thereon. On obtaining thereon the certificate of adoption of the canal board, he shall file the same in his office, and a copy thereof in the office of the superintendent of public works. Whenever the superintendent of public works shall require the services of an engineer upon any portion of the canals undergoing repairs, or upon any construction or improvement work, the superintendent of public works may call upon the state engineer and surveyor for the assignment of an engineer. It shall be his duty to make such assignment upon such requisition. The state engineer and surveyor shall perform all such duties in relation to the repair of the canals, and in the construction and improvement of the canals, as shall be required by the superintendent of public works.

(L. 1880, ch. 493; R. S., 8th ed., 729.)

**[Re-enacted in section 50 of the revision, without change in substance.]**

§ 5. The superintendent of public works shall have full power to make and promulgate all needful rules and regulations for the safe and speedy navigation, and for the protection and maintenance of the canals and the structures thereof. The superintendent of public works, his deputies, superintendents or foremen of sections and lock-tenders, appointed by him shall possess all the statutory power now possessed by superintendents of canal repairs and lock-tenders, and may arrest, anywhere within the jurisdiction of their office, all offenders under this section, and convey and deliver them to the proper officers or magistrates, to be proceeded against according to law; and, when it shall be necessary, the said officers are hereby empowered and authorized to command and have the assistance of any person upon whom they may call in making such arrest.

§ 6. All laws and parts of laws in conflict with any provisions of this act are hereby repealed.

**[The first sentence of section 5 is re-enacted in section 23 of the revision; the remainder of such section is re-enacted in section 29 of the revision.]**

**Section 6 is not re-enacted.]**

(L. 1881, ch. 488; R. S., 8th ed., 775.)

Section 1. Any town, village or city on the line of any navigable canals of the state may, with the approval, consent, and under the direction of the superintendent of public works, erect, build and maintain within its own limits a bridge or bridges across said canal, of such kind, dimensions and material, and with such approaches, as may be deemed best, at the proper cost and expense of such town, village or city, at any point where there is not now a bridge built and maintained by the state.

§ 2. In case any such bridge, by reason of being a hoist, lift or swing bridge, shall require the constant attendance of bridge tenders to manage and work such bridge, the superintendent of public works shall alone have the power of the appointment and removal of such and so many of such bridge tenders as he may think proper, but the expenses or wages of such bridge tenders shall be paid to such superintendent of public works by any such town, village or city, when, and as often as he may require, to be by him paid to such bridge tenders, and all the cost of material, power or tools necessary for the tending of such bridge shall be paid for by such town, village or city, on the demand therefor of such superintendent of public works.

(L. 1881, ch. 488; R. S., 8th ed., 776.)

§ 3. The common council of any city may, and is hereby authorized and empowered to enact and adopt an ordinance for the erection and construction of a lift, hoist or swing bridge over any canal at any street in any such city where in the opinion of such common council, such bridge may be deemed necessary, and such common council is hereby empowered to levy and assess upon the property benefited the cost of constructing any such bridge, provided, however, that in any such case such city or common council shall first obtain the consent and approval of the superintendent of public works to such proposed bridge, and such bridge shall be built, operated and maintained and be under the supervision and control of the superintendent of public works, and be built, maintained and operated at the expense of any such city, or of the property adjudged by the common council benefited thereby.

【Sections 1, 2 are re-enacted in section 117 of the revision, without change.

Section 3 is re-enacted in section 118 of the revision, without change.】

(L. 1881, ch. 536; R. S., 8th ed., 776.)

Section 1. When the construction of the superstructure of an iron bridge over any of the canals of this state shall be ordered by the legislature or canal board, or shall be required by the superintendent of public works, the state engineer and surveyor shall prepare general specifications, and the superintendent of public works shall advertise for plans, detailed specifications and proposals for the work.

§ 2. Before the contract shall be awarded, the plans and detailed specifications accompanying the proposals shall be submitted to the state engineer for his approval. He shall submit the plan approved to the canal board, together with a copy of the proposals received. Upon obtaining the certificate of adoption by the canal board, he shall file the plan so approved in his office, and a copy thereof in the office of the superintendent of public works, who shall then let the work.

【Re-enacted in section 114 of the revision, without change in substance.】

(L. 1883, ch. 165; R. S., 8th ed., 765.)

Section 1. The offices of collectors of canal tolls, weigh-masters and assistant weigh-masters upon the canals of this state are hereby abolished, and any work heretofore performed by any of the said officers, and which is hereafter to be required, shall

(L. 1883, ch. 165; R. S., 8th ed., 765.)

be performed by the persons employed by the superintendent of public works in the care and management of the canals.

§ 2. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

【Omitted from the revision. It is now obsolete.】

(L. 1883, ch. 244; R. S., 8th ed., 729.)

Section 1. The superintendent of public works shall hereafter annually, on or before the fifteenth day of February in each year, report to the legislature the trade and tonnage carried or transported upon the canals of this state during the preceding season of navigation.

§ 2. It shall be the duty of every master of any boat or float, or of the person or persons in charge of the same, upon the request of any person designated by said superintendent of public works, to gather the statistics required to be reported by this act, to deliver to such person a true bill of the quantity and description of the lading of such boat or float, specifying the place from which it departed and to which it is destined. In case of refusal or violation of the provisions of this section, a penalty of twenty-five dollars is imposed, to be collected in the name of the state of New York, by the persons designated to gather statistics, to be accounted for and paid over to the state treasurer. Provided, that the master or person in charge of any canal boat may require that such boat and its load be weighed, at some weigh-lock, to be fixed by the superintendent of public works, and to receive duplicate certificates of the weight thereof, on payment of such reasonable fee, to be fixed by said superintendent, as will reimburse the state for the actual expense thereof; and provided further, that said superintendent may, at any time, require any such boat or boats and load to be so weighed.

§ 3. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

【Section 1 is re-enacted in section 23 of the revision, without change in substance.

Section 2 is re-enacted in section 161 of the revision, without change in substance.】

(L. 1884, ch. 294, amends L. 1879, ch. 269.)

(L. 1884, ch. 362; R. S., 8th ed., 2414.)

Section 1. It shall hereafter be lawful for any citizen of this state, residing in the vicinity of any of the canals of the state, with the permission of the superintendent of public works, to cut,

(L. 1884, ch. 362; R. S., 8th ed., 2414.)

gather and haul away to his own premises, for his own domestic use, any ice from the canals of the state whenever the same can be done without causing damage to the banks or other structures of the canals.

【Re-enacted in section 23, subdivision 13 of the revision, without change in substance.】

(L. 1887, ch. 123; R. S., 8th ed., 537.)

Section 1. The superintendent of public works is hereby authorized to select from one of his clerks a deputy, to hold office during the pleasure of said superintendent of public works, and who may perform any of the duties of the office of said superintendent of public works, except those imposed upon him as a member of the canal board, and the signing of drafts on the comptroller. But the person so designated shall not receive any additional salary or compensation for the performance of such duties, and before he shall enter upon the duties hereby devolved upon him he shall execute a bond to the people of the state of New York in the penal sum of twenty-five thousand dollars with two or more substantial freeholders of this state as sureties who shall in the aggregate justify in double the amount of the penalty of said bond conditioned for the faithful performance of the duties of his office and for truly accounting for all moneys intrusted to him as such deputy superintendent which bond shall be subject to the approval of the comptroller, and when so approved shall be filed in the office of the comptroller and shall be renewed whenever and so often as the same shall be required by the governor.

【Re-enacted in section 22 of the revision.

See Public Officers Law, sections 10 and 11, for provisions relating to oaths and undertakings of public officers.】





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THE  
MEMBERSHIP CORPORATIONS LAW

CONTAINING

- I. COMMISSIONERS' DRAFT OF THE MEMBERSHIP CORPORATIONS LAW.
- II. COMMISSIONERS' MEMORANDUM EXPLANATORY THEREOF.
- III. APPENDIX TO THE MEMBERSHIP CORPORATIONS LAW, CONTAINING THE LAWS PROPOSED TO BE REPEALED THEREBY.



COMMISSIONERS' DRAFT

OF

THE MEMBERSHIP CORPORATIONS LAW.

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AN ACT relating to membership corporations, constituting chapter forty-three of the general laws.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows :*

CHAPTER XLIII OF THE GENERAL LAWS.

The Membership Corporations Law.

- Article 1. General provisions relating to membership corporations. (§§ 1-17.)
2. Corporations for purposes not elsewhere authorized. (§§ 30-31.)
3. Cemetery corporations. (§§ 40-57.)
4. Fire corporations. (§§ 65-66.)
5. Prevention of cruelty corporations. (§§ 70-72.)
6. Hospital corporations. (§ 80.)
7. Christian associations. (§§ 90-91.)
8. Bar associations. (§ 100.)
9. Veteran soldiers and sailors associations. (§§ 110-112.)
10. Soldiers' monument corporations. (§§ 120-122.)
11. Boards of trade. (§§ 130-131.)
12. Agricultural and horticultural corporations. (§§ 140-148.)

## ARTICLE I.

## General Provisions Relating to Membership Corporations.

- Section 1. Short title.
2. Definitions.
3. Relation of article one to the other articles of this chapter.
4. Extension of corporate purposes by supplemental certificates.
5. Incorporation of unincorporated associations.
6. Re-incorporation of membership corporations.
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Section 1. Short title.—This chapter shall be known as the membership corporations law.

§ 2. Definitions.—Neither the term membership corporation, nor the term membership corporation created by special law, includes a stock corporation, or a corporation organized for pecuniary profit or a corporation subject to any of the provisions of the insurance law. Subject to such exceptions, the term membership corporation means a corporation hereafter incorporated under this chapter, or heretofore incorporated under any law repealed by this chapter; but does not include a membership corporation created by special law; and the term membership corporation created by special law means a corporation created by special law for pur-

poses for all of which a corporation might be created under this chapter.

**[New.]**

§ 3. Relation of article one to the other articles of this chapter.— If in any other article of this chapter, there be a provision in conflict with any provisions of this article, such provisions of such other article shall prevail. If in any other article of this chapter, there be a provision relating to a matter embraced in this article, but not in conflict therewith, such provision in such other article shall be deemed to be additional to the provision in this article relating to the same subject-matter, and both provisions shall, in such case, be applicable.

**[New.]**

§ 4. Extension of corporate purposes by supplemental certificates.— A membership corporation, created under or by a general or special law, for purposes for which a corporation may be created under article two of this chapter, may, from time to time, extend its corporate purposes so as to include any other purpose for which a corporation may be created under such article, by filing in the offices in which its original certificates of incorporation, if any, are filed, or otherwise in the offices in which original certificates of incorporation for such purposes are required to be filed, a copy of a resolution in favor of such extension, certified by the president and secretary of the corporation to have been duly adopted by the concurring vote of a majority of the members of the corporation present at an annual meeting, or a special meeting duly called for that purpose; and a certificate signed and acknowledged by a majority of the directors of the corporation, in pursuance of such resolution, with the approval, indorsed thereupon or annexed thereto, of a justice of the supreme court and, if the care of orphan, pauper or destitute children be included among such corporate purposes, with the additional approval, indorsed thereupon or annexed thereto, of the state board of charities.

**[L. 1880, ch. 246, § 1; R. S., 8th ed., 2027.**

**L. 1890, ch. 425; R. S., 8th ed. (Supp.), 3455.**

These two statutes only authorize a corporation created for any of the purposes of the club act of 1865, to extend to any other purposes of such act, and corporations created for any of the purposes of the charitable corporations act of 1848, to extend to any other purposes of such act.】

§ 5. Incorporation of unincorporated associations.—An unincorporated club, society or association organized for purposes for which a corporation may be created under any article of this chapter, may, by the unanimous vote of all its members present and voting at a regular or regularly called meeting thereof, authorize its directors to incorporate for the same purposes, under such article, with a corporate name adopted by such meeting, if notice of the intention so to incorporate be given at least thirty days before such meeting, personally or by mail, to each member of such association whose residence or post-office address is known. On such incorporation, the members of such previously unincorporated club, association or society shall become members of such corporation, and all of the property of such unincorporated club, society or association, or held by any person for its use or benefit, shall vest in and become the property of such corporation, subject to be taken in payment of all claims against such unincorporated club, society or association, or against any of the members thereof as such members, or by reason of their membership therein, the same as if such incorporation had not taken place.

【Political clubs, L. 1886, ch. 236, § 4; R. S., 8th ed., 2028.

Trained nurses, L. 1888, ch. 291, § 6; R. S., 8th ed., 2088.

This section is new, except as to political clubs and associations for training skilled nurses.】

§ 6. Re-incorporation of membership corporations.—A membership corporation created by special law for purposes for which a corporation may be created under any article of this chapter, may, by the unanimous vote of all its members present and voting at a regular or regularly called meeting thereof, authorize its directors to re-incorporate with the same corporate name, for the same purposes under such article. Such re-incorporation shall not effect a dissolution of the corporation, but shall be deemed

a continuation of its corporate existence, without affecting its property rights, or its liabilities, or the liabilities of its members or officers as such, but thereafter it shall have only such other rights, powers and privileges, and be subject only to such other duties and liabilities as a corporation created for the same purposes under such article.

[New. The provisions of L. 1849, ch. 273, § 2; R. S., 8th ed., 1924, and L. 1888, ch. 391, § 6; R. S., 8th ed., 2088, authorizing benevolent and charitable corporations previously incorporated under other acts to reincorporate under the act of 1848, and corporations for training skilled nurses previously incorporated under other acts, to reincorporate under the act of 1888, are repealed without re-enactment, as all membership corporations incorporated under general laws, prior to the passage of this chapter will be subject to the provisions of this chapter as fully as if reincorporated hereunder, and any authority for reincorporation of such corporations under this chapter would be useless. The provisions repealed probably applied only to corporations previously incorporated under a general law.

This section adopts the new policy of allowing corporations incorporated by special law, to reincorporate hereunder and thereafter to be governed by this chapter only, instead of applying to the Legislature. from time to time, for special legislation amending their charters. There seems to be no reason why a corporation created by special law should not have all the privileges and be subject to all the restrictions of a corporation created under general law for the same purposes, if the corporation so desires.]

§ 7. Consolidation.—Any two or more membership corporations, incorporated under or by general or special laws, for kindred purposes, being purposes for which a corporation may be formed under any article of this chapter, may enter into an agreement for the consolidation of such corporations, setting forth the terms and conditions of consolidation, the name of the proposed corporation, the number of its directors, the time of the annual election and the names of the persons to be directors until the first annual meeting.

Each corporation may petition the supreme court for an order consolidating the corporations, setting forth in such petition the agreement for consolidation, a statement of all its property and

liabilities and the amount and sources of its annual income. Before the presentation of the petition to the court, the agreement and petition must be approved by three-fourths of the votes lawfully cast at a meeting of each corporation, separately and specially called for that purpose, which approval, duly verified by the chairman and clerk of such meeting, shall be annexed to the petition. On presentation of the petition, the certificate of approval and the agreement for consolidation, and on such notice to interested parties as the court may prescribe, and after hearing such interested parties as desire to be heard, the court may make an order for the consolidation of the corporations on such terms and conditions as it may prescribe.

When such order is made and duly entered, such corporations shall become one corporation by the name designated in the order, and shall have only such rights, powers and privileges, and be subject only to such duties and obligations as a membership corporation formed under this chapter for the same purposes; and all the property belonging to the corporations so consolidating, shall be vested in and transferred to the new corporation, which shall be subject to all the liabilities of the former corporation, to the same extent as if they had been contracted or incurred by it.

But a corporation for the prevention of cruelty to children or animals shall not consolidate with any other corporation than a corporation for the prevention of cruelty to children or animals, and notice of the presentation of the petition for such consolidation must be given, in case of a corporation for the prevention of cruelty to children, to the president of the New York society for the prevention of cruelty to children, and, in case of a corporation for the prevention of cruelty to animals, to the president of the American society for the prevention of cruelty to animals

[New.]

§ 8. By-laws.—The by-laws of a membership corporation, created by or under a general or special law, may be divided into different classes and designated as constitution, by-laws, rules, regulations, or otherwise, and may provide different methods for amending and repealing such classes, respectively.

The by-laws of any such corporation may make provisions, not inconsistent with law or with its certificate of incorporation, regulating the admission, voluntary withdrawal, censure, suspension and expulsion of members; the fees and dues of members and the termination of membership on non-payment thereof or otherwise; the number, times and manner of choosing, qualifications, terms of office, official designations, powers, duties and compensation of its officers; what shall constitute a vacancy in the office of any such officer and the manner of filling it; the number of members, not less than one-third, or if one-third be nine or more, not less than nine, whose presence shall be necessary to constitute a quorum at its meetings; the qualifications of voters at its meetings; the eligibility of members to be directors; and the classification of its directors into not more than five classes, so that the term of office of all the directors of one class only shall expire each year, and that the term of office of their successors shall be as many years as there are classes, but not so as to change the term of office of any director then in office.

Such by-laws may authorize holders of the bonds of the corporation secured by mortgage upon its property, to vote for the directors thereof, and may apportion the number of votes each such bondholder may cast to the amount of such bonds held by him.

The by-laws of a membership corporation, incorporated for yachting purposes, may provide that the owners of each yacht shall, together, cast but one vote at the meetings of the corporation.

[Animals, breed, L. 1891, ch. 213, § 2; R. S., 8th ed. (Supp.), 3504.

Bar Associations, L. 1887, ch. 317, § 2; R. S., 8th ed., 2032.

Benevolent, etc., L. 1848, ch. 318, § 2; R. S., 8th ed., 1922.

Clubs, social, L. 1865, ch. 368, §§ 2, 11; R. S., 8th ed., 2022.

Clubs, political, L. 1886, ch. 236, § 2; R. S., 8th ed., 2028.

Clubs, social, L. 1875, ch. 267, §§ 2, 4; R. S., 8th ed., 2025.

Hospitals, L. 1889, ch. 95, § 8; R. S., 8th ed. (Supp.), 3353.

Library, L. 1796, ch. 43, § 9; R. S., 8th ed., 2036.

Library, L. 1875, ch. 343, §§ 2, 3; R. S., 8th ed., 2041.

Library, L. 1853, ch. 395, § 6; R. S., 8th ed., 2038.

Play-grounds, L. 188, ch. 293, § 2; R. S., 8th ed., 2014.

Y. W. C. A., L. 1891, ch. 167, § 5; R. S., 8th ed. (Supp.), 3499

The general corporation law (§§ 11, 29), provides that the by-laws, if any, made by the members shall control the directors, and if none be made by the members, the by-laws of the corporation, may be made by the directors.

This section collates the provisions of various existing statutes as to by-laws, extending them to all corporations, and contains a few new provisions not contained in any existing statute.】

§ 9. Members.—Each person signing the certificate of incorporation of a membership corporation, and each person admitted to membership therein, in pursuance of law or its by-laws, shall be a member of the corporation until his membership shall terminate by death, voluntary withdrawal, or otherwise, in pursuance of the by-laws. The right of a member to vote, and all the right, title and interest of a member in or to the corporation, or its property, shall cease on the termination of his membership, unless otherwise provided by law, or by the by-laws of the corporation.

【Bar Associations, L. 1887, ch. 317,, § 3; R. S., 8th ed., 2032.

Clubs, political, L. 1886, ch. 236, § 3; R. S., 8th ed., 2028.

Clubs, social, L. 1865, ch. 368, § 2; R. S., 8th ed., 2022.

Clubs, social, L. 1875, ch. 267, §§ 2, 3; R. S., 8th ed. 2025, als am. by L. 1890, ch. 68; R. S., 8th ed. (Supp.), 3298, and L. 1892, ch. 597; R. S., 8th ed. (Supp.), 3299, and L. 1893, ch. 465.

Library, L. 1796, ch. 43, § 8; R. S., 8th ed., 2036.

The extension of the provisions of this section to all corporations works some minor changes in nearly each one, which are made to produce uniformity and simplify the law.】

§ 10. Directors.—The directors of a membership corporation other than those named pursuant to law, in its certificate of incorporation, shall be elected from among the members, by the members thereof and by such other persons as are authorized, by or in pursuance of law, to vote therefor.

If a vacancy in the office of director of a membership corporation created under or by a general or special law, shall not be filled within six months after it occurs, either for want of a by-law or other provision for filling the same; or if, by reason of the absence, illness or other inability of one or more of the

remaining directors, a quorum of the board of directors can not be obtained, the remaining directors of such corporation, or a majority of them, may appoint a member of such corporation to fill such vacancy, and such appointment filed in the office of the clerk of the county in which such corporation is located, shall constitute such person a director of such corporation, until the next annual election of the directors.

- [Bar Association, L. 1887, ch. 317, § 4; R. S., 8th ed., 2032.  
 Benevolent, etc., L. 1848, ch. 319, § 3; R. S., 8th ed., 1923.  
 Benevolent, etc., L. 1892, ch. 333; R. S., 8th ed. (Supp.), 3532.  
 Clubs, political, L. 1886, ch. 235, § 5; R. S., 8th ed., 2029.  
 Clubs, social, L. 1865, ch. 368, § 3; R. S., 8th ed., 2022.  
 Clubs, social, L. 1875, ch. 267, § 4; R. S., 8th ed., 2026, as  
 am. by L. 1892, ch. 597; R. S., 8th ed. (Supp. ), and  
 L. 1893, ch. 465.  
 Library, L. 1796, ch. 43, §§ 4, 5, 6; R. S., 8th ed., 2034.  
 Library, L. 1825, ch. 19, § 1; R. S., 8th ed., 2036.  
 Library, L. 1875, ch. 343, § 3; R. S., 8th ed., 2041.  
 Library, L. 1853, ch. 395, § 6; R. S., 8th ed., 2038.  
 Nurses, L. 1888, ch. 391, §§ 3, 4; R. S., 8th ed., 2087.  
 Y. M. C. A., L. 1887, ch. 501, § 5; R. S., 8th ed., 1934.  
 Y. W. C. A., L. 1889, ch. 95, § 6; R. S., 8th ed. (Supp.), 3499.]

By section 29 of the general corporation law, the directors are given general management of the affairs of the corporation; and unless otherwise provided by the by-laws, a majority is made a quorum for the transaction of business.

The provisions of L. 1892, ch. 333, that where vacancy in board of directors of a benevolent or charitable corporation shall not be filled in six months, etc., a citizen of the state may be appointed by a quorum to fill vacancy, changed by this section to the appointment of a member to fill such vacancy. The provision of L. 1875, ch. 267, § 4, relating to social clubs, as amended by L. 1893, ch. 465, that the members may fix quorum of directors by filing consent in office of county clerk, etc., is omitted, as by this article they may fix the quorum by the by-laws. This section is also applied to corporations created under special laws, as it is believed to be advantageous and may result in preventing application to the Legislature for special legislation. Several slight changes as to particular corporations are made with a view to simplicity and uniformity.]

§ 11. Powers, duties and liabilities of directors.—The directors of every membership corporation, created under or by a

general or special law, shall present at its annual meeting, a report, verified by the president and treasurer, or by a majority of the directors, showing the whole amount of real and personal property owned by it, where located, and where and how invested, the amount and nature of the property acquired during the year immediately preceding the date of the report and the manner of its acquisition; the amount applied, appropriated or expended during the year immediately preceding such date, and the purposes, objects or persons to or for which such applications, appropriations or expenditures have been made; and the names and places of residences of the persons who have been admitted to membership in the corporation during such year, which report shall be filed with the records of the corporation and an abstract thereof entered in the minutes of the proceedings of the annual meeting.

The directors of every membership corporation shall be jointly and severally liable for any debt of the corporation contracted while they are directors, payable within one year or less from the date it was contracted, if an action for the collection thereof be brought against the corporation within one year after the debt becomes due, and an execution issued therein to the county where its office is, or where a certificate of its incorporation is filed, be returned wholly or partly unsatisfied; and if the action against the directors to recover the amount unsatisfied be commenced within one year after the return of such execution.

[Bar Associations, L. 1887, ch. 317, § 8; R. S., 8th ed., 2033.

Benevolent, etc., L. 1848, ch. 319, § 7; R. S., 8th ed., 1923.

Clubs, social, L. 1865, ch. 368, § 7; R. S., 8th ed., 2023.

Clubs, social, L. 1865, ch. 267; § 8, 9; R. S., 8th ed., 2027.

Library, L. 1796, ch. 43, § 5; R. S., 8th ed., 2035.

Library, L. 1875, ch. 343, § 6; R. S., 8th ed., 2041.

Play ground, L. 1888, ch. 293, § 6; R. S., 8th ed., 2014.

The provision of nearly all the laws relating to membership corporations, regarding the filing of an annual inventory in the county clerk's office, has proved of no value in practice and is, substantially, a nullity. It has, therefore, been omitted and the first paragraph of this section requiring a report at annual meetings made applicable to all membership corporations, including

those incorporated by special charter. The substance of this paragraph is substantially the same as L. 1882, ch. 268, § 7, relating to alumni associations. The provisions of this section, fixing the liability of directors is substantially that of L. 1848, ch. 319, § 7 (charitable corporations), and L. 1865, ch. 368, § 7 (social clubs) and several other similar statutes, and is extended to all membership corporations. In some of the laws hereby repealed, the liability is limited to debts in which the directors acquiesce; in others to debts with no limitation as to duration of credit; in some cases no liability of directors is prescribed by statute. By this section a uniform liability of directors is adopted for all membership corporations. The provision requiring judgment and execution against the corporation in the first instance is to settle a question which has produced much litigation.】

§ 12. Prohibitions on officers.—No director or other officer of a membership corporation hereafter created shall receive, directly or indirectly, any salary, compensation or emolument from such corporation, either as such officer or director or in any other capacity, unless authorized by the by-laws of the corporation, and by the concurring vote of all the directors.

No director or other officer of a membership corporation hereafter created shall be interested, directly or indirectly, in any contract relating to the operations conducted by the corporation, nor in any contract for furnishing supplies thereto, unless expressly authorized by the by-laws of the corporation, and by the concurring vote of all the directors.

The foregoing provisions of this section shall also apply after January 1, 1895, to every membership corporation now existing and heretofore created under any law repealed by this chapter, and until such date the restrictions of law now existing as to such compensation and contracts shall continue applicable to the directors and other officers of such corporation.

【Charitable, L. 1872, ch. 104, § 1; R. S., 3th ed., 1926.

Hospital, L. 1889, ch. 95, § 9; R. S., 8th ed. (Supp.), 3355.

The provision of L. 1872, ch. 104, which prohibits the directors of a benevolent or charitable corporation, from receiving any compensation, is changed by this section so as to allow such compensation, if authorized by the by-laws, and the concurring vote of all the directors.

The provision of L. 1889, ch. 95, § 9, which prohibits the board of managers of a hospital corporation from being interested in contracts is changed so as to allow such interest in contracts if expressly authorized by the by-laws and the vote of all the directors, and thus modified these provisions are extended to all membership corporations. ]

§ 13. Purchase, sale, mortgage and lease of real property.—No purchase, sale, mortgage or lease of real property shall be made by a membership corporation, unless ordered by the concurring vote of at least two-thirds of the whole number of its directors.

No real property of a membership corporation shall be leased for a term of more than three years, or mortgaged or sold, without leave of the court. A mortgage may be so authorized to secure the payment of bonds issued or to be issued to different persons. The court may grant leave to a membership corporation to convey real property, without consideration, to another membership corporation created for the same or kindred purposes.

If a mortgage of the real property of any such corporation be executed and delivered without leave of the court, the court may thereafter, on such proceedings as are required to obtain leave of the court to mortgage such property, confirm such previously executed mortgage, and thereon such mortgage shall be as valid and of the same force and effect as if it had been executed and delivered with leave of the court, except as to purchasers or incumbrancers of such real property, subsequent to the execution and delivery of such mortgage.

A membership corporation may, if its by-laws so provide, and pursuant to the provisions thereof, and without leave of the court, convey to a member of the corporation a portion of its real property for the erection thereupon of a cottage or other dwelling-house with suitable outbuildings, on the terms and conditions that such portion, together with the buildings thereupon, shall belong to such member and on his death pass as part of his estate to his heirs or devisees, but that the land, whereupon such buildings shall be erected, shall be inalienable by him or

them, except to the corporation or to member thereof, and that such member in his lifetime, or after his death, his heirs or devisees, may convey such interest in such property to the corporation, or to a member thereof for such sum as may be mutually agreed on, but not to any other person. Such conveyance may provide that the grantees of the interest in each lot so conveyed shall be entitled to one vote, either in person or by proxy, at all meetings of the corporation, if the by-laws authorize such a provision.

Except as otherwise provided in this chapter no portion of a cemetery of a cemetery corporation which any person other than the corporation is entitled to use for burial purposes, or in which burials have been made and not lawfully removed, shall be sold, mortgaged or leased by the corporation.

[L. 1848, ch. 319, § 3; R. S., 8th ed., 1923.

L. 1854, ch. 50, § 1; R. S., 8th ed., 1924.

L. 1861, ch. 58, § 1; R. S., 8th ed., 1925.

L. 1865, ch. 368, § 9; R. S., 8th ed., 2023.

L. 1869, ch. 629, § 1; R. S., 8th ed., 2024.

L. 1875, ch. 267, § 3; R. S., 8th ed., 2025, as am. by L. 1890, ch. 68; R. S., 8th ed. (Supp.), 3298.

L. 1889, ch. 33; R. S., 8th ed. (Supp.), 3293.

L. 1889, ch. 95; § 7; R. S., 8th ed. (Supp.), 3353.

L. 1891, ch. 167, § 6; R. S., 8th ed. (Supp.), 3499.

The provision of L. 1848, ch. 319, § 3, relating to benevolent, etc., corporations, that no purchase, lease or sale of the real property shall be made unless two-thirds of the directors are present at the meeting at which it is ordered, is changed so as to require the concurring vote of two-thirds of the whole number of directors, and, as so modified, is extended to all membership corporations.

The provisions of this section requiring leave of court to mortgage or sell real property is new as to a large number of corporations. L. 1861, ch. 58, requires leave of court for leasing real property of benevolent, etc., corporation. This is re-enacted and applied to all membership corporations, but applies only to leases for more than three years.

Code of Civil Procedure, §§ 3390-96, provide for the procedure on application for leave to sell, etc., real property, and requires a vote of, at least, two-thirds of the directors, at a duly called meeting and authorizes the court to require notice of the application to be given to parties interested as members or otherwise.

The corresponding provisions of existing law are, therefore, repealed, without re-enactment here. The provision of L. 1865, ch. 368, § 9, authorizing social clubs to apply to county judge for leave to mortgage the real property and issue bonds, entitling the holders to participation as voters at meetings of the corporation, is extended to all membership corporations. The participation which a bondholder shall have in the affairs of the corporation is not fixed by this section, but may be regulated by the by-laws pursuant to § 8 of this chapter.

The provision authorizing the court to grant leave to a membership corporation to convey its real property without consideration to another membership corporation of the same or a kindred nature is new.

A provision has been inserted allowing the court to confirm a sale, etc., made without leave of the court as required by law, but not so as to affect subsequent purchasers and incumbrancers. This will cover the provisions of L. 1869, ch. 629, § 1, as am. by L. 1884, ch. 68, authorizing the court to confirm a bond or mortgage given by a social club, prior to March 29, 1889. The extension of this power is new.

The provision of L. 1868, ch. 267, § 3, authorizing a social club to convey, without leave of court, portions of its real property to members for cottages, etc., is extended to all membership corporations.]

§ 14. Changing number of directors.—A membership corporation, created under or by a general or special law, may, by a majority vote at an annual meeting, determine to change the number of its directors to any number which a corporation created under this chapter for the same purposes is authorized to have. On such determination, a majority of the directors shall sign, acknowledge, and file a supplemental certificate specifying such reduction or increase; and thereon the number of directors shall be the number stated in such certificate. Each director then in office shall serve until his term expires, and there shall be no election of directors until, the number of directors is less than the number specified in the certificate.

[L. 1848, ch. 319, §11; R. S., 8th ed., 1924.

L. 1865, ch. 368, § 3; R. S., 8th ed., 2022.

L. 1875, ch. 267, § 4; R. S., 8th ed., 2026, as am. by L. 1892, ch. 597; R. S., 8th ed. (Supp.), 3299, and L. 1893, ch. 465.

L. 1887, ch. 317, § 5; R. S., 8th ed., 2032.

L. 1892, ch. 197; R. S., 8th ed. (Supp.), 3521, as am. by L. 1893, ch. 180,

L. 1888, ch. 391, § 4; R. S., 8th ed., 2087.

This section is L. 1892, ch. 197, as amended by L. 1893, ch. 180, without change in substance, extended to all membership corporations. The extension to those created under special laws is new. There is a lack of uniformity in the provisions of existing law.

In some cases the consent of two-thirds of the members is required; in others, the charge may be made by a majority of the members, and in others, by the trustees themselves.】

§ 15. Changing time of annual meetings.—The time of holding the annual meeting of a membership corporation, created under or by a general or special law, may be changed, from time to time, by vote of an annual meeting, or of a special meeting duly called for that purpose, and by filing a supplemental certificate of incorporation containing a transcript of the minutes of the meeting, relating to such change, duly certified and verified by the president and secretary of the meeting.

【This section is new as to most membership corporations. Gen. Corp. L., § 5, provides for the filing, etc., of supplemental certificates.】

§ 16. Visitation of supreme court.—All membership corporations, with their books and vouchers, shall be subject to the visitation and inspection of a justice of the supreme court, or of any person appointed by such court for that purpose. If it appears to such court by the verified petition of a member of any such corporation, or of any citizen of the state, that it, or its directors, officers, or agents, have misappropriated any of the funds or property of the corporation, or diverted them from the purpose of its incorporation, or that it has acquired property in excess of the amount which it is authorized by law to hold, or engaged in any business other than that stated in its certificate of incorporation, it may order that a notice of at least eight days be served on the directors of the corporation, with a copy of such petition, requiring them to show cause at a time and place to be therein specified, why they should not be required to make and file an

inventory and account of the property, effects and liabilities of such corporation with a detailed statement of its transactions during the twelve months next preceding the granting of such order; and, if on the hearing of such application, no good cause is shown to the contrary, the court may make an order requiring such inventory, account and statement to be filed, and proceed to take and state an account of the property and liabilities of the corporation, or appoint a referee for that purpose; and when such account is taken and stated, it may, after hearing all the parties to the application, enter a final order determining the amount of property so held by the corporation, its annual income, whether any of the property or funds of the corporation have been misappropriated or diverted to any other purpose than that for which such corporation was incorporated, and whether such corporation has been engaged in any other business than that specified in its certificate of incorporation, from which final order an appeal may be taken by any party aggrieved to the general term of the supreme court, and to the court of appeals; but no corporation shall be required to make and file more than one inventory and account in any one year, nor to make a second account and inventory, while proceedings are pending for the statement of an account under this section.

[L. 1848, ch. 319, § 8; R. S., 8th ed., 1923.

L. 1888, ch. 293, § 6; R. S., 8th ed., 2014.

L. 1865, ch. 368, § 8; R. S., 8th ed., 2023.

L. 1875, ch. 267, § 9; R. S., 8th ed., 2027.

L. 1875, ch. 343, § 7; R. S., 8th ed., 2042.]

The provision relating to visitation by the supreme court is here retained, and the rights of members further secured by a summary application by an aggrieved member, and a speedy and inexpensive judicial investigation. The provision is new as to many membership corporations.]

§ 17. Reports to comptroller by corporations receiving state moneys.—No money appropriated by the legislature to a membership corporation, created under or by a general or special law, except a corporation subject to the visitation of the regents of the university of the state of New York, shall be paid to it or to any institution under its care, control or management, until its

president and secretary, or a majority of its directors, make a sworn report to the comptroller of its purposes, operations, financial condition, expenditures and management, and particularly, of the disposition of moneys appropriated by the legislature for the maintenance of such institution, for the year ending with the last preceding thirtieth day of September. The comptroller shall transmit such report to the legislature with his annual report.

[L. 1864, ch. 419, § 1; R. S., 8th ed., 1925.

Extended expressly to corporations created by special law. Originally applied only to hospitals, orphan asylums, etc.]

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## ARTICLE II.

### Corporations for Purposes not Elsewhere Authorized.

Section 30. Purposes for which a corporation may be created under this article.

31. Certificate of incorporation.

§ 30. Purposes for which corporations may be formed under this article.—A membership corporation may be created under this article for any lawful purpose, except a purpose for which a corporation may be created under any other article of this chapter, or any other general law than this chapter.

[New in form and partly new in substance. This section is intended to make one complete general statement, including every object for which membership corporations ought to be permitted under a general law, instead of a long enumeration of particular purposes, requiring new legislation whenever incorporation is desired for a new purpose. The definition of a membership corporation in § 2 will prevent the formation of a stock corporation, or of a mutual benefit insurance corporation under this article.]

§ 31. Certificates of incorporation.—Five or more persons may become a membership corporation for any one of the purposes for which a corporation may be formed under this article or for any two or more of such purposes of a kindred nature, by making,

acknowledging and filing a certificate, stating the particular objects for which the corporation is to be formed, each of which must be such as is authorized by this article; the name of the proposed corporation; the territory in which its operations are to be principally conducted; the town, village or city in which its principal office is to be located, if it be then practicable to fix such location; the number of its directors, not less than three nor more than thirty; the names and places of residence of the persons to be its directors until its first annual meeting; and the times for holding its annual meetings.

Such certificate shall not be filed without the written approval, indorsed thereupon or annexed thereto, of a justice of the supreme court, and also of the state board of charities, if such certificate specify among such purposes the care of orphan, pauper or destitute children.

On filing such certificate, in pursuance of law, the signers thereof, their associates and successors, shall be a corporation in accordance with the provisions of such certificate.

**[**Animals, breed, L. 1891, ch. 213, § 1; R. S., 8th ed. (Supp.), 3504.

Benevolent, etc., L. 1848, ch. 319, §§ 1-2; R. S., 8th ed., 1922.

Clubs, political, L. 1886, ch. 236, §§ 1-2; R. S., 8th ed., 2027.

Clubs, social, etc., L. 1865, ch. 368, §§ 1-2; R. S., 8th ed., 2021.

Clubs, social, etc., L. 1875, ch. 267, §§ 1-2; R. S., 8th ed., 2024.

Fine arts, L. 1850, ch. 242, § 1; R. S., 8th ed., 2044.

Hospitals, L. 1889, ch. 95, §§ 1, 2, 5; R. S., 8th ed. (Supp.), 3353.

Labor unions, L. 1871, ch. 875, § 1; R. S., 8th ed., 2047.

Nurses, L. 1888, ch. 391, §§ 1-2; R. S., 8th ed., 2087.

Consolidated so far as provisions relating to execution, contents and filing of certificate of incorporation are concerned, with numerous minor changes in unimportant details, made for the sake of simplicity of statement and uniformity. The minimum number of signers of certificate and of directors is in many cases reduced, and the maximum number increased.

The general qualifications of incorporators, the place of filing and other general regulations applicable to certificates of incorporation of membership corporations, are provided by the general corporation law, §§ 3-9.]

## ARTICLE III.

## Cemetery Corporations.

## Section 40. Definitions.

41. Certificates of incorporation.
42. Cemeteries in Kings, Queens, Rockland and Westchester counties.
43. Corporate meetings.
44. Directors.
45. Acquisition of property.
46. Surveys and maps of cemetery.
47. Rules and regulations.
48. Record of burials.
49. Title and rights of lot owners.
50. Application of proceeds of sales of lots.
51. Burials and removals.
52. Taxation of lot owners by corporation.
53. Expenses of improving vacated lot.
54. Certificates of indebtedness.
55. Certificates of stock heretofore issued.
56. Private cemetery corporations.
57. Family cemetery corporations.

§ 40. Definitions.—In this article, the term burial includes the act of placing a dead human body in a mausoleum, vault or other proper receptacle for the dead, as well as in the earth; the term lot owner or owner of a lot means any person having a lawful title to the use of a lot, plat or part of either in a cemetery; and the term cemetery corporation, means any corporation heretofore created for cemetery purposes under a law repealed by this chapter, or hereafter created under this article, but the general term cemetery corporation does not include a family cemetery corporation or a private cemetery corporation. This article does not apply to cemeteries belonging to religious or municipal corporations.

**[New.]**

§ 41. Certificates of incorporation.—Seven or more persons may become a cemetery corporation, by making, acknowledging and filing in the offices of the secretary of state and of the clerk of the county where the cemetery of such corporation, or a part thereof, is to be situated, a certificate specifying each county, town, city and village in which such cemetery or any part thereof is to be situated; the name of the proposed corporation; the times of holding its annual meetings; the number of its directors; either six, nine, twelve, or fifteen; and the names of the persons to be directors until others are elected in their places, divided into three equal classes, each class to hold office until the first, second and third annual meetings thereafter, respectively.

Such certificate may also specify a percentage of the surplus proceeds of sales of lots, after payment of the purchase-price of the real property of the corporation, to be invested as a permanent fund, the income of which shall be used for the improvement, preservation and embellishment of the cemetery grounds, and for no other purpose. Such certificate shall not be filed without the approval, indorsed thereupon or annexed thereto, of a justice of the supreme court.

On filing such certificate, in pursuance of law, the signers thereof, their associates and successors shall be a corporation, in accordance with the provisions of such certificate.

[L. 1847, ch. 133, §§ 1-3; R. S., 8th ed., 1935, as am. by L. 1893, ch. 34,

without change of substance, except

(1) Requiring the number of directors of corporations hereafter created to be a multiple of three, and increasing the maximum from twelve to fifteen.

(2) Requiring approval of certificate by justice of the supreme court.

(3) Requiring the certificate to be filed with the secretary of state.]

§ 42. Cemeteries in Kings, Queens, Rockland and Westchester counties.—A cemetery corporation shall not take by deed, devise or otherwise any land in either of the counties of Kings, Queens, Rockland or Westchester for cemetery purposes, or set apart any ground for cemetery purposes in either such county, unless

the consent of the board of supervisors thereof be first obtained, which board may grant such consent upon such conditions, regulations and restrictions as, in its judgment, the public health or the public good may require. Notice of application to any such board for such consent shall be published once a week for six weeks in two newspapers of the county having the largest circulation therein, stating the time when the application will be made, a brief description of the lands proposed to be acquired, their location and the quantity thereof. All persons interested therein may be heard on the presentation of such application; and if such consent is granted, the corporation may take and hold the lands designated in such consent, which shall not authorize any one corporation to take or hold more than two hundred and fifty acres. The board of supervisors of each such county may, from time to time, make such regulations as to the mode of burials in any cemetery in the county, as, in its judgment, the public health may require.

[L. 1852, ch. 280, §§ 3, 4; R. S., 8th ed., 1939.

L. 1854, ch. 238, § 3; R. S., 8th ed., 1939.

L. 1889, ch. 389, §§ 1, 3; R. S., 8th ed. (Supp.), 3295.

None of the provisions from which this section is derived are repealed as they apply to individuals as well as corporations. There is no change in substance as to corporations.]

§ 43. Corporate meetings.—Public notice of each annual meeting of a cemetery corporation shall be given in a manner to be prescribed by its by-laws. Each person of full age owning the use of a lot or plat, or part of either, containing at least ninety-six square feet of land in the cemetery of the corporation, or if there be two or more owners of such lot, then one of them designated by a majority of such joint owners to represent such lot or plat, or part of either, may cast one vote for each such lot or plat, or part of either, so owned, at the meetings of the corporation.

Each owner of a certificate of stock heretofore lawfully issued, and each owner of a certificate of indebtedness of a cemetery corporation, may vote at the meetings of the corporation. Each owner of stock heretofore lawfully issued shall be entitled to one

vote for each share of stock owned by him at the meetings of the corporation. Each owner of a certificate of indebtedness of a cemetery corporation shall be entitled to one vote at such meetings for each one hundred dollars of such indebtedness.

[L. 1847, ch. 133, § 5; R. S., 8th ed., 1939, as am. by L. 1890, ch. 229; R. S., 8th ed. (Supp.), 3294. L. 1860, ch. 163, § 3; R. S., 8th ed., 1940. L. 1879, ch. 107, § 2; R. S., 8th ed., 1944.]

§ 44. Directors.—The directors of a cemetery corporation shall be elected at its annual meetings, by ballot, by the persons entitled to vote thereat. The term of office of a director shall be three years.

A vacancy in the office of a director shall be filled by appointment, by the remaining directors, until the next annual meeting, when it shall be filled by election for the unexpired term. After the first annual meeting, no one but a lot owner shall be eligible to the office of director.

The directors may change their number to either six, nine, twelve or fifteen, by signing, acknowledging, and filing a supplemental certificate stating the number of directors the corporation shall thereafter have; and thereafter there shall be elected at each annual meeting, one-third of the number of directors fixed by such certificate; but the directors then in office shall continue in office until the expiration of their terms.

[L. 1847, ch. 133, § 5; R. S., 8th ed., 1936, as am. by L. 1890, ch. 299; R. S., 8th ed. (Supp.), 3294.]

This section provides that vacancies in the board of directors occurring other than by expiration of term may be filled by the board until the next annual election instead of for the remainder of the term as by L. 1847, ch. 133, § 5.

The provision of L. 1847, ch. 133, that if less than one-fifth of the lot owners or less than one half of the holders of stock certificates vote at an election of directors, the directors shall be chosen by a majority of the existing directors instead of by the meeting, is omitted.]

§ 45. Acquisition of property.—A cemetery corporation may, from time to time, acquire by condemnation or otherwise, exclusively for the purposes of a cemetery, not more than two hundred acres of land, forming one continuous tract, wholly or

partly within the county in which its certificate of incorporation is recorded, except as in this article otherwise provided, as to the acquisition of land in the counties of Kings, Queens, Rockland and Westchester.

A cemetery corporation may acquire, otherwise than by condemnation, additional real property, not exceeding in value two hundred thousand dollars, for the purposes of the convenient transaction of its general business, no portion of which shall be used for the purposes of a cemetery.

A cemetery corporation may acquire, otherwise than by condemnation, additional real or personal property, absolutely or in trust, in perpetuity or otherwise; and use the same or the income therefrom in pursuance of the terms on which the same is acquired, for the following purposes, only:

1. The improvement or embellishment, but not the enlargement of its cemetery;
2. The construction or preservation of a building, structure, fence or walk therein;
3. The renewal, erection or preservation of a tomb, monument, stone, fence, railing or other erection or structure on or around any lot therein; or
4. The planting or cultivation of trees, shrubs, flowers or plants in or about a lot therein.

A cemetery corporation may accept a conveyance of real property held by a religious corporation for burial purposes, or by trustees for such purposes, if all such trustees, living and residing in this state, unite in the conveyance, subject to all burdens, trusts and conditions to which the title of such grantors was subject. Lots previously sold in any such lands, and grants for burial purposes therein previously made, shall not be affected by any such conveyance; nor shall any grave, monument or other erection thereupon, or any remains therein, be disturbed or removed without the consent of the lot owner, or if there be no such owner, without the consent of the heirs of the person whose remains are buried in such grave.

[L. 1847, ch. 133, §§ 4, 9; R. S., 8th ed., 1935, as am. by L. 1891, ch. 382; R. S., 8th ed. (Supp.), 3293.  
L. 1870, ch. 527, §§ 1, 4; R. S., 8th ed., 1941.]

L. 1881, ch. 139, § 1; R. S., 8th ed., 1948.

L. 1892, ch. 498; R. S., 8th ed. (Supp.), 3603.

By L. 1847, ch. 133, § 4, the property acquired by the corporation must be within the county, while by this section it may be partly in the county and partly in an adjoining county.

This section authorizes the corporation to acquire lands for cemetery purposes by condemnation, if unable to agree with the owners for the purchase thereof. The court of appeals in the matter of the Deansville Cemetery Association, 66 N. Y., 569, held that the provision in chapter 452 of the Laws of 1873, authorizing the taking of lands by a rural cemetery association by a proceeding in invitum was unconstitutional for the reason that under the rural cemetery act of 1847 the use for which the property was taken was not a public one.

The case seemed to turn upon the point that by the provisions of the act the title to the fee of the property was ultimately to vest in the lot-owners; and it was therefore the taking of the property of one person for the use and benefit of another, and not of the public; and stress was laid on the fact that no right on the part of the public to buy lots or bury their dead in such a cemetery was secured by the provisions of the act under which the association was incorporated. The commissioners believe that the constitutional objection is obviated by the terms of section 49, which restricts the disposition of lands to the use of a lot for burial purposes, and makes it obligatory on the corporation to allow every person who desires to obtain the use of a lot to do so on reasonable terms and at the same price at which others may obtain the same privilege.

The limitation in L. 1847, ch. 133, of personal property to \$5,000 has been omitted, and the corporation is brought under sections 11, 12 of the general corporation law.

The provision of L. 1892, ch. 498, that real property acquired by a cemetery corporation for general business purposes is not exempt from taxation, is omitted. The property is taxable unless exempted by L. 1893, ch. 498, which only exempts the property of the corporation used exclusively for cemetery purposes.

“It seems to be settled law that lands may be condemned for the purpose of a public cemetery, where the public in general have a right to obtain interment.” (Farneman v. Mt. Pleasant Cem. Ass’n, Ind. Sup. Ct., 35 N. E., 271.)

§ 46. Surveys and maps of cemetery.—Every cemetery corporation shall, from time to time, as land in its cemetery may be required for burial purposes, survey and subdivide such land

into lots or plats, with avenues, paths, alleys, walks and ornamental plats; and make and file a map thereof in the office of the corporation, open to the inspection of all persons. Any unsold lots, plats or parts of lots or plats, in which there have not been any burials may, by order of the directors, be resurveyed and altered in shape or size, and properly designated on such maps.

[L. 1847, ch. 133, § 4; R. S., 8th ed., 1936, as am. by L. 1891, ch. 382, § 1; R. S., 8th ed. (Supp.), 3293.

L. 1847, ch. 133, § 7; R. S., 8th ed., 1937.

Re-enacts parts of §§ 4 and 7, without change of substance.]

§ 47. Rules and regulations.—The directors of a cemetery corporation may make reasonable rules and regulations for the use, care, management and protection of the property of the corporation and of all lots, plats and parts thereof in its cemetery; for regulating the dividing marks between the various lots, plats and parts thereof, their size, shape, location, and the size of erections thereupon; for prohibiting or regulating the erection of structures upon such lots, plats or parts thereof; for preventing unsightly monuments, effigies and structures within the cemetery grounds, and for the removal thereof; for regulating the introduction and care of plants, trees and shrubs within such grounds; for the prevention of the burial in a lot, plat or part thereof, of a person not entitled to burial therein; for regulating or preventing disinterments; for the conduct of persons while within the cemetery grounds; and for the exclusion of improper persons therefrom and improper assemblages therein.

Such rules and regulations shall be plainly printed and publicly posted in the principal office of the corporation, and in such places upon the cemetery grounds as the directors by resolution prescribe. The directors may prescribe penalties to be paid by a person violating any such rule or regulation, not exceeding twenty-five dollars for each violation, which shall be recoverable by the corporation in a civil action.

[L. 1874, ch. 245, § 4; R. S., 8th ed., 1943, without change of substance, except that the power to prescribe penalties is new.]

§ 48. Record of burials.— A record shall be kept of every burial in the cemetery of a cemetery corporation, showing the date of the burial, the name, age and place of birth of the person buried, when these particulars can be conveniently obtained, and the lot, plat, or part thereof, in which such burial was made. A copy of such record, duly certified by the secretary of such corporation, shall be furnished on demand and payment of such fees therefor as are allowed the county clerk for certified copies of records.

[L. 1847, ch. 133; § 3; R. S., 8th ed., 1938, as added by L. 1891, ch. 382; R. S., 8th ed, (Supp.), 3205, without change in substance.]

§ 49. Title and rights of lot owners.— The directors must fix and determine the prices of the burial lots or plats, and keep a plainly printed copy of the schedule of such prices publicly posted in the principal office of the corporation, open at all reasonable times to the inspection of all persons.

The corporation shall, subject to its rules and regulations, sell and convey to any person, the use of the lots or plats designated on the map filed in the office of the corporation, on payment of the prices so fixed and determined, but need not sell and convey more than one lot or plat to one person. The conveyances of lots and plats shall be signed by the president or vice-president and treasurer of the corporation. All lots, plats or parts thereof, the use of which has been so conveyed as a separate lot, shall be indivisible, except with the consent of the lot owner and the corporation; and the use of the same for burial purposes, after a burial therein, shall be inalienable and be held in perpetuity by the grantee and his heirs, except as otherwise provided in this section; and on the death of the grantee shall descend to his heirs-at-law, or to such of them, or to such other person or persons, or to such other class or classes of persons, as may be designated in such conveyance. An heir may release to the other heirs, and a joint owner may release to the other joint owners, his interest therein, on conditions specified in the release, which shall be filed in the office of the corporation. The title of a grantee, or his heirs, shall not be affected by the dissolution of

the corporation or its non-user of its corporate rights and franchises, or any act of forfeiture on its part, or any alienation of its property or incumbrance thereon made or suffered by it. If no burial be made in any such lot, or if all the dead bodies buried therein be lawfully removed therefrom, the owners thereof may, with the consent of the corporation, sell the use of such lot. The secretary of the cemetery corporation shall file and record in its books all deeds of transfer. A lot owner may reconvey or devise to the corporation his right and title in and to any lot theretofore conveyed to him by such corporation.

[L. 1847, ch. 133, §§ 4, 7, 11; R. S., 8th ed., 1936; as am. by L. 1891, ch. 382, § 1; R. S., 8th ed. (Supp.), 3293.

L. 1880, ch. 566, §§ 2, 3, 4; R. S., 8th ed., 1944.

L. 1891, ch. 344; R. S., 8th ed. (Supp.), 3513.

The clause providing that sales shall be made to any person, and at uniform prices, is new.

The provision authorizing the sale of the use only of the lot is new.

The provision that the title of the lot-owner shall not be affected by the dissolution of the corporation or by any alienation or incumbrance made by it is new.

L. 1847, ch. 133, § 7 made all the lots indivisible, while by this section the lots can be divided with the consent of the lot-owner and the corporation.]

§ 50. Application of proceeds of sales of lots.—At least one-half of the proceeds of the sales of the use of all lots and plats shall be applied to the payment of the purchase-money of the real property acquired by the corporation until such purchase-money is paid, and the residue thereof shall be applied to preserving, improving and embellishing the cemetery grounds and the avenues and roads leading thereto, and to defraying the incidental expenses and liabilities of the corporation. After the payment of such purchase-money, and the expense of surveying and laying out the cemetery; the proceeds of all sales of the use of lots and plats thereafter shall be applied only to the improvement, preservation and embellishment of such cemetery and the incidental expenses of the corporation. Such corporation may agree with a person from whom any lands are purchased for a cemetery, to pay therefor a specified share not exceeding one-half of the proceeds

of all sales of the use of lots and plats made from such land, and such share shall be first applied to the payment of such purchase-money, and the residue thereof shall be applied to the preservation, improvement, and embellishment of the cemetery, and the incidental expenses of the corporation. Where lands have been so purchased, and are to be paid for as provided by this section, the prices of the use of lots and plats fixed by the directors and in force when such purchase was made, shall not be changed, while the purchase-price remains unpaid, without the written consent of a majority in interest of the persons from whom the lands were purchased, their heirs, representatives or assigns.

[L. 1847, ch. 133, § 7; R. S., 8th ed., 1937,  
without change in substance.]

§ 51. Burials and removals.—If there be more than one lot owner of a lot in the cemetery of a cemetery corporation, no body of a dead person shall be buried therein without the consent of all the owners of such lot, unless such person, at the time of his death, was an owner of the lot, or a relative, wife or husband of an owner, or a relative of such wife or husband.

A dead body lawfully buried in a lot in such a cemetery may be removed therefrom, with the consent of the corporation, and the written consent of the owners of such lot, and of the surviving wife, husband, children, if of full age, and parents of the deceased. If the consent of any such person can not be obtained, or if the corporation refuses its consent, the consent of the county court of the county or the supreme court, at a special term, held in the district, where the cemetery is situated, shall be sufficient. Notice of the application for the consent of the court must be given, at least, eight days prior thereto, personally, or, at least, sixteen days prior thereto, by mail, to the corporation or to the person not consenting, and to every other person on whom service of notice may be required by the court.

[L. 1847, ch. 133, § 11; R. S., 8th ed., 1938,  
without change in substance.]

§ 52. Taxation of lot owners by corporation.—If the funds of a cemetery corporation applicable to the improvement of its ceme-

tery wholly outside of a city, or applicable to the construction of a receiving vault therein for the common use of lot owners, be insufficient for such purposes, the directors of the corporation, not oftener than once in any year and for such purposes only, may levy a tax of one dollar on the owners of each lot, or, with the written consent of two-thirds of the lot owners, or with the concurring vote of a majority of the lot owners at an annual meeting, or at a special meeting duly called for such purpose, may levy a tax on the lot owners at a rate not exceeding five dollars for each lot of average value proportionately to the prices at which the lots were respectively sold by the corporation. Notice of such tax shall be served on the lot owners, or where two or more persons are owners of the same lot, on one of them, either personally, or by leaving it at his residence with a person of mature age and discretion, or by mail, if he resides in a city, town or village where the office of the corporation is not located. If such tax shall remain unpaid for more than thirty days after service of such notice, the president and secretary of the corporation may issue a warrant to the treasurer of the corporation, requiring him to collect such tax in the same manner as school collectors are required to collect school taxes; and such treasurer shall have the same power and be subject to the same liabilities in executing such warrant as a collector of school taxes has or is subject to by law in executing a warrant for the collection of school taxes.

[L. 1868, ch. 402, §§ 1-3; R. S., 8th ed., 1940.

The present law provides for the collection of taxes by the school district collector of the district in which the cemetery is situated, and if he refuses to act, allows the trustees of the corporation to appoint a person to collect the same. The duty properly belongs to the treasurer of the corporation as provided by this section. The change will greatly simplify the procedure.

The provision requiring the notice to be given to lot owners is new.]

§ 53. Expenses of improving vacated lot.—Whenever a person having a lot in the cemetery of a cemetery corporation shall vacate the same by a removal of all the dead buried therein, and leave such lot in a broken and unimproved condition for a period

of one month or more from the date of such removal, the corporation may grade, cut, fill or otherwise change the surface thereof, for the improvement of the lot and the general improvement of the cemetery grounds, without reducing the area of the lot. The expense of such improvement, not exceeding ten dollars, shall be chargeable to such lot. If the owners of such lot shall not, within six months after such expense has been incurred, repay to the corporation the amount chargeable to the lot, the corporation may sell the lot at public auction upon the cemetery grounds, previous notice of such sale having been posted at the main entrance of the cemetery, and mailed to the owners of such lot at their last-known post-office address, at least ten days prior to the day of sale, and shall pay the surplus, if any, of the proceeds of such sale over such amount, on demand, to the owners of such lot.

[L. 1871, ch. 378, §§ 1-2; R. S., 8th ed., 1942,  
without change of substance.]

§ 54. Certificates of indebtedness.—If a cemetery corporation be indebted for lands purchased for cemetery purposes, or for services rendered or materials furnished in preserving or improving its cemetery, the directors thereof, by the concurring vote of a majority of their whole number, may, with the consent of the creditor to whom any such indebtedness is owing, issue certificates under the corporate seal, signed by the president and secretary, for the amount of such indebtedness, or a part thereof, payable at such times and drawing such a rate of interest and in such sums as may be agreed on with such creditor; but the amount of any certificate shall not be less than one hundred dollars, nor the rate of interest higher than the rate authorized by law. The certificate shall be transferable by delivery, unless otherwise provided on the face thereof; and the directors shall keep in the books of the corporation an exact and true account of the number and amount of such certificates, the persons to whom issued, the time of maturity and the rate of interest. A separate account shall be kept in the books of the corporation of the certificates issued for the purchase-money of lands, and the

certificates issued for debts incurred in preserving and improving the cemetery. The directors, at least twice in each year, shall apply the proceeds of all sales of the use of lots and plats in payment of such certificates, severally, and on such payment, they shall cancel the same on their book and destroy the certificates returned. Until such certificates are paid, each holder thereof shall be entitled at all meetings of the corporation, to one vote for each one hundred dollars of such indebtedness held by him. The certificates issued pursuant to this section shall not be a lien upon any lot belonging to a lot owner.

[L. 1860, ch. 163, §§ 1-4; R. S., 8th ed., 1939,  
L. 1884, ch. 433.

By L. 1860, ch. 163, § 2, indebtedness can be funded by a vote of all the trustees, changed in this section to a vote of a majority.]

§ 55. Certificates of stock heretofore issued.—If a cemetery corporation, incorporated under a law repealed by this chapter, has converted its outstanding certificates of indebtedness into certificates of stock, in pursuance of law, no interest shall accrue to the holders of such stock, but they shall receive semi-annually a dividend thereon for their proportional part of the surplus or net receipts of the corporation over and above current expenses. Such certificates of stock shall be transferrable only on the books of the corporation on the surrender of the certificate, unless otherwise provided on the face thereof, and on every such surrender a new certificate of stock shall be issued to the person to whom the same has been transferred; and the holders of such stock shall be entitled, in person or by proxy, to one vote for every share thereof, at each meeting of the corporation. A register of the stock issued by the corporation shall be kept by its directors showing the date of issue, the number of shares, the par value thereof, the name of each person to whom issued, the number of the certificates therefor; and all transfers of such stock shall be noted and entered in such register, and the certificates surrendered shall be deemed canceled by the issue of a new certificate, and the surrendered certificate shall be destroyed. Any director may become the holder or transferee of such stock for his own individual use or benefit. No such stock shall be a lien

on the lot of any individual lot owner within the cemetery limits; and no other or greater liability of the corporation issuing such stock shall be created or deemed to exist than may be necessary to enforce the faithful application of the surplus or net receipts of the corporation to and among the holders of the stock in the manner hereinbefore specified.

A cemetery which has heretofore issued such certificates of stock is a membership corporation and not a stock corporation.

[L. 1879, ch. 107, §§ 1-4; R. S., 8th ed., 1943, without change of substance as to certificates of stock heretofore issued. The power to issue certificates of stock hereafter is repealed and not re-enacted.]

§ 56. Private cemetery corporations.—Seven or more persons may become a private cemetery corporation by setting off for a private cemetery inclosed real property, to the extent of not more than three acres, and by electing at a meeting of the proprietors of the real property so set off, at which not less than seven shall be present, three of their number to be directors, to hold office for five years. The chairman and secretary of such meeting shall make, sign and acknowledge, and file in the office of the clerk of the county in which such real property is situated, a certificate containing the name of the corporation, a description of the lands so purchased or set apart, and the names of the directors. No such cemetery shall be located within one hundred rods of any dwelling-house without the written consent of the owner thereof.

Additional lands may be acquired by a private cemetery corporation to an extent not to exceed three acres; but no additional lands so purchased or otherwise acquired shall be used for the purpose of burial within three hundred feet of any dwelling without the written consent of the owner thereof.

[L. 1854, ch. 112, §§ 1-4, 6, 10; R. S., 8th ed., 1945, without change of substance.

The provision of L. 1854, ch. 112, in regard to filling vacancies in office of director, is omitted here. The by-laws may provide therefor.]

§ 57. Family cemetery corporation.—Any person may, by deed or devise, dedicate land to be used exclusively for a family

cemetery, or the executors, administrators or trustees of a deceased person may, with the written authority of all the surviving heirs, next of kin, devisees and legatees of the deceased person, executed in person or by attorney, or if infants, by general guardian, dedicate lands of such deceased person to be used exclusively for such purpose, or purchase with the funds of the estate under their control, suitable lands therefor, and may pay to the directors of such cemetery money or other personal property as hereafter provided. The quantity of land so dedicated shall not exceed three acres, nor be located within one hundred rods of a dwelling-house, without the consent of the owner. The instrument dedicating such land shall describe the same, may appoint directors to manage such cemetery, may direct the manner of choosing successors to the directors, and may grant to such directors and their successors money or personal property to be a fund for maintaining, improving and embellishing such cemetery, in accordance with the deed or will of such person, or the written authority of such heirs, next of kin, devisees and legatees. The instrument dedicating land for a family cemetery, together with the authority, if any, of the heirs, next of kin, devisees and legatees of a deceased person, shall be filed in the office of the county clerk of each county in which such cemetery is to be situated.

A fund created by will for the purpose of maintaining, improving and embellishing such a cemetery shall not exceed ten per cent of the clear value of the estate of the testator in excess of his debts and liabilities, other than legacies.

The directors shall, before entering on their duties, file in the office of the clerk of each county, in which such cemetery is situated, a written acceptance of their appointment; and thereon such directors and their successors shall be a corporation by the name expressed in the instrument dedicating such land. Such directors and their successors, before receiving any property, money or funds for improving, maintaining and embellishing the cemetery under their charge, shall execute to the surrogate of the county in which such real property is situated a bond with sureties approved by him, in a penalty of twice the principal sum of

the fund placed in their charge, conditioned for the faithful preservation and application thereof, according to the rules, directions or by-laws, prescribed in the instrument under which their appointment was made, and renew their bond or execute a new bond whenever required so to do by such surrogate. At least once in each year, and oftener if required by the surrogate, they shall file with him their account of receipts and expenditures, on account of the fund in their hands, together with vouchers for all disbursements.

[L. 1854, ch. 112, §§ 7-9; R. S., 8th ed., 1946-7,  
without change of substance.]

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#### ARTICLE IV.

##### Fire Corporations.

Section 65. Certificate of incorporation.

66. Powers.

§ 65. Certificate of incorporation.—Ten or more persons may become a fire, hose, protective or hook and ladder corporation by making, acknowledging and filing a certificate, stating the particular object for which the corporation is to be formed; the name of the proposed corporation; the city, village or town in which it proposes to act; the number of directors; and the names and places of residence of the persons to be directors until its first annual meeting.

Such certificate shall not be filed without the approval indorsed thereupon, or annexed thereto, of a justice of the supreme court, nor unless there is annexed thereto a certified copy of a resolution of the board of trustees of the village, or the approval of the mayor of the city, or, if not within a village or city, a resolution of the town board of the town in which the corporation proposes to act, consenting to its incorporation.

On filing such certificate, in pursuance of law, the signers thereof, their associates and successors, shall be a corporation in accordance with the provisions of such certificate.

[L. 1873, ch. 397, §§ 1, 2; R. S., 8th ed., 2055, as am. by  
L. 1890, ch. 27; R. S., 8th ed. (Supp.), 3300.  
without change of substance.]

§ 66. Powers.— A fire, hose, protective or a hook and ladder corporation, incorporated under this article or under a law repealed by this chapter, shall only engage in such business as properly belongs to a fire, hose, protective or hook and ladder corporation, in the city, village or town named in its certificate. In participating in the prevention and extinguishment of fires, such corporation shall be under the control of the city or village authorities having by law, control over the prevention or extinguishment of fires therein.

**[L. L. 1873, ch. 397, § 2; R. S., 8th ed., 2056,  
without change of substance.]**

## ARTICLE V.

### Corporations for the Prevention of Cruelty.

Section 79. Certificate of incorporation.

71. Prohibition of new corporations in certain counties.

72. Special powers.

§ 70. Certificate of incorporation.— Five or more persons may become a corporation for the prevention or cruelty to children, or the prevention of cruelty to animals, or for both of such purposes, by making, acknowledging, and filing a certificate, stating the particular objects for which the corporation is to be formed; the name of the proposed corporation; the county in which its operations are to be conducted; the town, village or city in which its principal office is to be located; the number of its directors not less than three nor more than thirty; the names and places of residence of the persons to be its directors until its first annual meeting; and the time for holding such annual meeting.

Such certificate shall not be filed, without the approval indorsed thereupon or annexed thereto, of a justice of the supreme court. If such certificate specify as one of the objects of the proposed corporation, the prevention of cruelty to children, there shall also be indorsed thereupon or annexed thereto the approval of the president of the New York Society for the Prevention of Cruelty to Children. If such certificate specify as one of the objects of the proposed corporation the prevention of

cruelty to animals, there shall also be indorsed thereupon or annexed thereto, the approval of the president of the American Society for the Prevention of Cruelty to Animals. If the approval of either of such presidents is not given within thirty days after application therefor, a justice of the supreme court may, in his discretion, and upon such notice to the officers refusing such additional approval, as he deems proper, order such certificate to be filed without such additional approval, and thereon such certificate may be filed accordingly.

On filing such certificate in pursuance of law, the signers thereof, their associates and successors shall be a corporation in accordance with the provisions of such certificate.

[L. 1875, ch. 130, §§ 1-2; R. S., 8th ed., 1931,

L. 1888, ch. 490, §§ 1-2; R. S., 8th ed., 1933, as am. by

L. 1891, ch. 291; R. S., 8th ed. (Supp.), 3291.

The authority to incorporate for both purposes is new.

The provision requiring the certificate to be approved by the presidents of the New York Society for the Prevention of Cruelty to Children, and the American Society for the Prevention of Cruelty to Animals, is new; but is guarded by an application to the court, if such approval is refused.]

§ 71. Prohibition of new corporations in certain counties.—A corporation for the prevention of cruelty to animals shall not hereafter be incorporated for the purpose of conducting its operations in the counties of New York, Kings, Queens, Richmond, Suffolk or Westchester, or in any other county if thereby there would be two or more such corporations formed for the purpose of conducting operations in such county.

[L. 1888, ch. 490, § 1; R. S., 8th ed., 1932, as am. by

L. 1892, ch. 291; R. S., 8th ed. (Supp.), 3291,

without change of substance.]

§ 72. Special powers.—A corporation formed for the purpose of preventing cruelty to children may prefer a complaint before any court, tribunal or magistrate having jurisdiction, for the violation of any law relating to or affecting children, and may aid in presenting the law and facts to such court, tribunal or magistrate in any proceeding therein.

A corporation formed for the purpose of preventing cruelty to animals may prefer a complaint before any court, tribunal or magistrate having jurisdiction, for the violation of any law relating to or affecting the prevention of cruelty to animals, and may aid in presenting the law and facts to such court, tribunal or magistrate in any proceeding therein.

A corporation for the prevention of cruelty to children may be appointed guardian of the person of a minor child during its minority by a court of record, or a judge thereof, and may receive and retain any child at its own expense on commitment by a court or magistrate.

All magistrates and peace officers shall aid such a corporation, its officers, agents and members in the enforcement of laws relating to or affecting children, and for the prevention of cruelty to animals.

[L. 1875, ch. 130, §§ 3, 4; R. S., 8th ed., 1932,  
L. 1888, ch. 490, § 4; R. S., 8th ed., 1933.

The first paragraph, relating to societies for the prevention of cruelty to children only, is extended in the second paragraph to societies for the prevention of cruelty to animals.]

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## ARTICLE VI.

### Hospital Corporations.

#### Section 80. Certificate of incorporation.

§ 80. Certificate of incorporation.—Five or more persons may become a corporation for the purpose of erecting, establishing or maintaining a hospital, infirmary, dispensary, or home for invalids, aged or indigent persons, by making, acknowledging and filing a certificate, stating the particular object for which the corporation is to be formed; the name of the proposed corporation; the town, village or city in which its principal office is to be located; the number of directors, not less than three nor more than thirty; the names and places of residence of the persons to be its directors until its first annual meeting, and the time for holding its annual meetings. Such certificate may also specify the qualification of members of the corporation

with respect to their adherence or non-adherence to a particular school or theory of medical or surgical treatment; and the systems of medical practice or treatment to be used or applied in such hospitals, infirmary, dispensary or home.

Such certificate shall not be filed without the written approval indorsed thereupon, or annexed thereto, of a justice of the supreme court.

On filing such certificate, in pursuance of law, the signers thereof, their associates and successors, shall be a corporation, in accordance with the provisions of such certificate.

[L. 1889, ch. 95, § 1; R. S., 8th ed. (Supp.), 3353,

without change of substance except that the minimum number of incorporators is changed from eleven to five, and the number of directors is to be expressly fixed by the certificate.]

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## ARTICLE VII.

### Christian Associations.

#### Section 90. Certificate of incorporation.

#### 91. Directors and trustees.

§ 90. Certificate of incorporation.—Twenty or more men may become a young men's Christian association, and twenty or more women may become a young women's Christian association, for the purposes of improving the spiritual, mental, social and physical condition of young men, or of young women, as the case may be, by making, acknowledging and filing a certificate stating the particular objects for which the corporation is to be formed; the name of the proposed corporation; the town, village or city in which its principal office is to be located; the number of directors, not less than three nor more than thirty; the names and places of residence of the persons to be its directors, until the first annual meeting; the times for holding its annual meetings; and the names of six trustees, each of whom shall be a member of some Protestant evangelical denomination, and not more than two of whom shall be members of any one denomination, to hold

office until their successors are elected, as provided by the by-laws.

Such certificate shall not be filed without the approval of a justice of the supreme court indorsed thereupon or annexed thereto.

On filing such certificate, in pursuance of law, the signers thereof, their associates and successors shall be a corporation in accordance with the provisions of such certificate, but no person shall be eligible to membership of such a corporation unless he have the same qualifications as the persons authorized to sign the certificate of incorporation thereof.

[L. 1887, ch. 501, §§ 1, 2, 4; R. S., 8th ed., 1933, as am. by L. 1890, ch. 104; R. S., 8th ed. (Supp.), 3292, L. 1891, ch. 167, §§ 1, 2; R. S., 8th ed. (Supp.), 3499, without change of substance as to Y. M. C. A.]

The number of trustees of Y. W. C. A. changed from five to six. The provision that not more than two of the trustees shall be of the same denomination is new as to Y. W. C. A. corporations.]

§ 91. Directors and trustees.—The trustees of such a corporation, with the president of the corporation, shall be a board of trustees thereof, and hold and control the real property of the corporation and all gifts and bequests of money to be held in trust. They shall pay the income of such property to the treasurer of the corporation so long as the income shall be expended by the directors thereof for the purposes for which it was formed.

The real property of such corporation shall not be liable for any debt or obligation contracted without the approval of the board of trustees.

In all proceedings for the purchase, sale, mortgage, and lease of real property, the board of trustees of such a corporation shall act as the board of directors thereof.

The directors of such corporation shall have the management and control of its property and affairs, except as such management and control is given by law to the board of trustees thereof.

[L. 1887, ch. 501, §§ 4, 5, 6; R. S., 8th ed., 1934. L. 1889, ch. 33; R. S., 8th ed. (Supp.), 3293. L. 1891, ch. 167, § 6; R. S., 8th ed. (Supp.), 3500, consolidated without change of substance.]

## ARTICLE VIII.

## Bar Associations.

## Section 100. Certificate of incorporation.

§ 100. Certificate of incorporation.—Nine or more attorneys or counselors of the supreme court of this state, in active practice, and residing or having their offices in the same county, may become a bar association for the purposes of cultivating the science of jurisprudence, promoting reforms in the law, facilitating the administration of justice, elevating the standard of integrity, honor and courtesy in the legal profession, and cherishing the spirit of brotherhood among the members thereof, by making, acknowledging and filing a certificate stating the particular objects for which the corporation is to be formed; the name of the proposed corporation; the county in which its operations are to be conducted; the town, village or city in which its principal office is to be located; the number of its directors, not less than three nor more than thirty; the names and places of residence of the persons to be its directors until the first annual meeting; and the times for holding its annual meetings.

Such certificates shall not be filed without the approval, indorsed thereupon or annexed thereto, of a justice of the supreme court.

On filing such certificate, in pursuance of law, the signers thereof, their associates and successors shall be a corporation in accordance with the provisions of such certificate, but no person shall be eligible to membership of such a corporation unless he have the same qualifications as the persons authorized to sign the certificate of incorporation thereof.

[L. 1887, ch. 317, § 1; R. S., 8th ed., 2031,  
without change of substance.]

## ARTICLE IX.

## Veteran Soldiers and Sailors' Associations.

Section 110. Certificate of incorporation.

111. Shares.

112. Property.

§ 110. Certificate of incorporation.—Twenty-five or more honorably discharged soldiers or sailors of the union army or navy, or the male descendants of such soldiers or sailors, may become a corporation for social, literary, patriotic, charitable and historical purposes, by making, acknowledging and filing a certificate stating the particular object for which the corporation is to be created, the name of the proposed corporation; the town, village or city in which its principal office is to be located; the names of fifteen persons to be its directors until the first annual meeting, and the times for holding its annual meetings.

Such certificate shall not be filed without the approval, indorsed thereupon or annexed thereto, of a justice of the supreme court.

On filing such certificate, in pursuance of law, the signers thereof, their associates and successors shall be a corporation in accordance with the provisions of such certificate; but no person shall be eligible to membership of such corporation unless he have the same qualifications as the persons authorized to sign the certificate of incorporation thereof.

[L. 1890, ch. 118, §§ 1-2; R. S., 8th ed. (Supp.), 3413, without change of substance.]

§ 111. Shares.—The by-laws of such a corporation may provide that the property of the corporation shall be divided into transferable shares of one hundred dollars each, entitling the holder thereof to one vote for each share, at all meetings of the corporation. Each shareholder shall be liable to the amount unpaid on the shares held by him, for the debts and liabilities of the corporation; but shall not be entitled to receive any interest or dividends

thereon. Such a corporation shall be a membership corporation and not a stock corporation.

**[L. 1890, ch. 118, § 3; R. S., 8th ed. (Supp.), 3414, without change of substance.]**

§ 112. Property.- All sums over the necessary expenses of such corporation and over and above the amount necessary to discharge the principal and interest on any mortgage or bond issued by it shall be held by the directors as a fund for the purchase of memorials, preservation of relics and historical evidences and trophies, and for charity to union veterans, their families or descendants.

**[L. 1890, ch. 118, § 2; R. S., 8th ed. (Supp.), 3414, Re-enacts a part of § 2, without change of substance.]**

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## ARTICLE X.

### Soldiers' Monument Corporations.

Section 120. Certificate of incorporation.

121. Property.

122. Improvement taxes.

§ 120. Certificate of incorporation.— Three or more persons may become a corporation for the purpose of erecting a monument, monuments, or memorial, including a memorial hall or building, to perpetuate the memory of the soldiers and sailors who served in defense of the union in the late war, by making, acknowledging and filing a certificate, stating the particular object for which the corporation is to be created; the name of the proposed corporation; the number of its directors, not less than six nor more than twelve; the names and places of residence of the persons to be directors until the first annual meeting; and the time for holding its annual meetings.

Such certificate shall not be filed without the approval, indorsed thereupon or annexed thereto, of a justice of the supreme court.

On filing such certificate, in pursuance of law, the signers thereof, their associates and successors shall be a corporation in accordance with the provisions of such certificate.

**[L. 1866, ch. 273, §§ 1, 3, 8; R. S., 8th ed., 2058, without change of substance.]**

§ 121. Property.—Such a corporation may acquire and hold, within the county in which its certificate of incorporation is recorded, not more than five acres of land, to be used exclusively for the erection of a suitable monument or monuments or other memorial, to perpetuate the memory of the soldiers and sailors who served in the defense of the union in the late war, from the town, city or county in which such monument, monuments or memorial is erected. Such a corporation may erect any such monument, monuments or memorial, upon any public street, square or ground of any town, city or village, with the consent of the proper officers thereof, or may purchase or accept the donation of land suitable for that purpose; and may take and hold the property given, devised or bequeathed to it in trust, to apply the same or the income or proceeds thereof for the erection, improvement, embellishment, preservation, repair or renewal of such monument, monuments or memorial, or of any structures, fences or walks upon its land, or for planting and cultivating trees, shrubs, flowers or plants, in and around or upon its lands, or for improving or embellishing the same in any manner consistent with the design and purposes of the association, according to the terms of such grant, devise or bequest. It may take by gift or purchase any lots or lands in any cemetery within such county, to be used and occupied exclusively for the burial of honorably discharged soldiers and sailors who served in such war, and for the erection of suitable monuments or memorials therein.

[L. 1866, ch. 273, §§ 4, 7; R. S., 8th ed., 2059,  
without change of substance.]

§ 122. Improvement taxes.—A tax may be levied and collected on the taxable property in a town, village or city in which such monument, monuments or other memorial may be erected, for the purpose of repairing or improving the same and the grounds thereof; and such tax shall be levied in the manner prescribed by law for levying general taxes in such town, village or city.

[L. 1866, ch. 273, § 6; R. S., 8th ed., 2060,  
without change in substance.]

## ARTICLE XI.

## Boards of Trade.

## Section 130. Certificate of incorporation.

131. Boards of trade heretofore incorporated, which have issued capital stock.

§ 130. Certificate of incorporation.—Five or more persons may form a corporation commonly called a board of trade or exchange, or a building exchange or association, for the purpose of fostering trade and commerce, or the interests of those having a common trade, business, financial or professional interest, to reform abuses relative thereto, to secure freedom from unjust or unlawful exactions, to diffuse accurate and reliable information as to the standing of merchants and other matters, to procure uniformity and certainty in the customs and usages of trade and commerce, and of those having a common trade, business, financial or professional interest; to settle differences between its members, and to promote a more enlarged and friendly intercourse between business men, by making, acknowledging and filing a certificate, stating the particular object for which the corporation is to be created; the name of the proposed corporation; the town, village or city in which its principal office is to be situated; the number of its directors, not less than five; the names and places of residence of the persons to be its directors, until its first annual meeting; and the times for holding its annual meetings.

Such certificate shall not be filed without the approval, indorsed thereupon, or annexed thereto, of a justice of the supreme court.

On filing such certificate, in pursuance of law, the signers thereof, their associates and successors, shall be a corporation in accordance with the provisions of such certificate.

[L. 1877, ch. 228, §§ 1, 2, 7; R. S., 8th ed., 2057.

This act of 1877 authorizes the formation of boards of trade with or without capital stock. If the corporation desires capital stock it will hereafter be necessary to incorporate under the business corporations law, instead of this chapter.

The provisions of L. 1877, ch. 288, § 1; restricting the existence of the corporation to fifty years is omitted.

The provisions of L. 1877, ch. 228, § 12; that twelve or more persons may form a board of trade corporation, is changed to five or more. The restrictive language of L. 1877, ch. 228, § 1, that persons "engaged in the business of erecting buildings or the furnishing of materials therefor," may form a board of trade corporation, is changed to persons "having a common trade, business, financial or professional interest."】

§ 131. Boards of trade heretofore incorporated, which have issued capital stock.—A board of trade, heretofore incorporated, under a law repealed by this chapter which has issued capital stock, entitling the holders of the shares thereof to dividends from the profits of the corporation, shall hereafter be subject to the provisions of the business corporation law, the stock corporation law and the general corporation law, and not to the provisions of this chapter.

【New.】

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## ARTICLE XII.

### Agricultural and Horticultural Corporations.

Section 140. Certificate of incorporation.

141. Restrictions on the formation of corporations.

142. Annual fairs and premiums.

143. Police and magistrates on exhibition grounds.

144. Capital stock.

145. Annual report.

146. Membership in state society.

147. Laws repealed.

148. When to take effect.

§ 140. Certificate of incorporation.—Ten or more persons may form a county or town agricultural corporation for promoting agriculture, horticulture and the mechanic arts, by making, acknowledging and filing a certificate, stating the particular objects for which the corporation is to be created; the territory in which its operations are to be conducted; the town, village or city in which its principal office is to be located; the number of

its directors, not less than six or more than twelve; the names of the persons to be its directors until its first annual meeting; and the times for holding its annual meetings.

Such certificate shall not be filed without the approval, indorsed thereupon or annexed thereto, of a justice of the supreme court.

On filing such certificate, in pursuance of law, the signers thereof, their associates and successors, shall be a corporation in accordance with the provisions of such certificate.

[L. 1855, ch. 425, §§ 1, 2; R. S., 8th ed., 2015, as am. by L. 1891, ch. 10; R. S., 8th ed. (Supp.), 3297, without change of substance.]

§ 141. Restrictions on the formation of corporations.—There shall be but one county society in a county, and but one town society in a town.

A joint society may be formed for two, three or four towns, but the formation of such society shall not prevent the formation of separate town societies for such towns.

[L. 1855, ch. 425, § 6; R. S., 8th ed., 2016, without change of substance.]

§ 142. Annual fairs and premiums.—Every such corporation, the American institute in the city of New York, and the New York state agricultural society, shall hold annual fairs and exhibitions, and distribute premiums.

Such a county or town corporation may, by a two-thirds vote of the members present and voting at a regular meeting, or at a special meeting, duly called for that purpose, fix the place where the annual fair and exhibition of the corporation shall be held.

Such corporations and societies shall regulate and award premiums on such articles, productions and improvements as they deem best calculated to promote the agricultural and household manufacturing interests of the state, having special reference to the net profits which accrue or are likely to accrue from the mode of raising the crop, or stock, or fabricating the article exhibited, so that the award be given to the most economical or profitable mode of production. No premium shall be paid unless the person claiming the same, or to whom it is awarded, delivers in writing to

the president of the corporation, society or institute an accurate description, as near as may be, of the process in preparing the soil, including the quantity and quality of the manure applied in raising the crop, and the kind and quantity of food in feeding the animal, and the expense and product of the crop, or of increase in value of the animal, with a view of showing the profit of cultivating the crop, or feeding and fattening the animal.

[L. 1855, ch. 425, §§ 5, 10; R. S., 8th ed., 2016,

L. 1841, ch. 169, § 3; R. S., 8th ed., 2018,

L. 1848, ch. 299, § 3; R. S., 8th ed., 2020,

consolidated without change in substance, except that the provision of § 10, that notice of a meeting to determine the question shall be published for four weeks, is omitted. The corporation can fix this by its by-laws.]

§ 143. Police and magistrates on exhibition grounds.—The board of directors of any such corporation may appoint as many citizens of this state as may be necessary to act as policemen at their exhibitions. Such policemen shall preserve order within and for a space of two hundred yards from and around the grounds of the corporation, protect the property within such grounds and space, and eject all persons improperly therein, or acting disorderly therein, or who neglect or refuse to pay the entrance fee or observe the rules prescribed by the corporation. They shall have the same power within such grounds and space, during the time such exhibition continues, and for twenty-four hours thereafter, that a constable has by law, in serving criminal process, making arrests and preserving the peace. No town or county shall be liable to pay any such policeman for services rendered under this section. Such corporations may regulate or prevent all kinds of theatrical, or circus, exhibitions and shows, huckstering and traffic in fruits, goods, wares and merchandise, of whatever description, and shall prevent all kinds of mountebank exhibitions or shows, for gain on the fair days and within a distance of two hundred yards of the fair grounds of such corporation, as it deems the same to obstruct or in any way interfere with the free and uninterrupted use of the highways around and approaching such fair grounds.

A justice of the peace of the county in which such grounds are situated, may, while upon such grounds, hold a court of special sessions, having the same duties, powers and jurisdictions over offenses committed upon such grounds and within two hundred yards of the boundaries thereof, as is had by a court of special sessions of a town of such county over offenses committed in the town. The fines and penalties received by a justice of the peace under this section shall, before the close of the fair or exhibition at which the same are received, be handed over by him to such society, for its use, together with a written report of his proceedings during such fair or exhibition. The report shall be in all respects the same as an annual account rendered for services in criminal proceedings by a justice of the peace of a town to the board of town auditors. The justice shall receive as compensation for his services under this section his legal fees to be paid by such society. The justice shall include in his annual report to the board the offenses committed and the proceedings had under this section, and the disposition made by him of fines and penalties collected. The justice shall enter in his regular criminal docket the full proceedings of all matters coming before him under this section, stating each case separately; and the record of such proceedings shall be kept open for public inspection upon such grounds during such fair or exhibition.

[L. 1859, ch. 36, §§ 1, 3; R. S., 8th ed., 2017,  
L. 1862, ch. 284; R. S., 8th ed., 2017,  
L. 1893, ch. 602,  
consolidated without change in substance.]

§ 144. Capital stock.—Such a corporation may, by a majority vote of the members thereof present and voting at a regular or regularly called meeting, and by filing a certificate to that effect in the county clerk's office of the county where its certificate of incorporation is filed, fix the amount of capital stock which such corporation shall have, not more than forty thousand, nor less than five thousand dollars, divide the same into shares of not less than ten dollars each, and issue such shares at not less than the par value thereof, to raise money for the purposes for which the corporation was created. An agricultural corporation

incorporated under this chapter or a law repealed hereby, which has issued or shall hereafter issue capital stock, entitling the holders of the shares thereof to dividends from the profits of the corporation, shall be subject to the business corporations law, the stock corporation law and the general corporation law, and not to the provisions of this article in conflict therewith, nor to article one of this chapter.

[L. 1855, ch. 425, § 4; R. S., 8th ed., 2016,

Re-enacts a part of section 4 without change of substance; but when such a corporation becomes a stock corporation, it is made subject to the stock corporation law and the business corporations law, instead of article one of this chapter or the inconsistent provisions of this article.]

§ 145. Annual report.—The directors of such a corporation, on or before February first in each year, shall make a verified report to the secretary of the New York State Agricultural Society of the transactions of the corporation for the preceding year, giving full details of the receipts and expenditures thereof, with a list of premiums awarded and to whom and for what awarded.

[L. 1855, ch. 425, § 9; R. S., 8th ed., 2017,

without change of substance except that the report is to be made by the directors instead of by the president, secretary and treasurer.]

§ 146. Membership in state society.—The presidents of the county agricultural association corporations, incorporated under this chapter, or under a law repealed thereby, or delegates to be chosen by such associations annually, shall be ex officio member of the New York State Agricultural Society.

[L. 1841, ch. 169, § 6; R. S., 8th ed., 2018,

without change of substance.]

§ 147. Of the laws enumerated in the schedule hereto annexed that portion specified in the last column is repealed.

[New.]

§ 148. When to take effect.—This chapter shall take effect on October first, eighteen hundred and ninety-four.

## SCHEDULE OF LAWS REPEALED.

Laws of	Chapter	Sections
1796.....	43.....	All.
1825.....	19.....	All.
1841.....	169.....	3, 6.
1847.....	133.....	All, except § 10.
1848.....	299.....	3, 6.
1848.....	319.....	All, except § 6.
1849.....	273.....	All.
1851.....	358.....	All.
1852.....	280.....	1, 2.
1853.....	122.....	All.
1853.....	339.....	All.
1853.....	395.....	All.
1853.....	487.....	All.
1854.....	50.....	All.
1854.....	112.....	All, except § 11.
1855.....	425.....	All, except § 11.
1857.....	302.....	All.
1857.....	531.....	All.
1859.....	36.....	All.
1860.....	163.....	All.
1860.....	242.....	All.
1861.....	58.....	All.
1861.....	94.....	All.
1861.....	95.....	All.
1861.....	239.....	All.
1862.....	284.....	All.
1862.....	302.....	All.
1864.....	419.....	All.
1865.....	368.....	All, except § 6.
1865.....	668.....	All.
1866.....	273.....	All, except § 5.
1866.....	457.....	All.
1867.....	799.....	All.
1868.....	402.....	All.
1869.....	629.....	All.

Laws of	Chapter	Sections
1869.....	708.....	All.
1870.....	527.....	All.
1871.....	68.....	All.
1871.....	378.....	All.
1871.....	705.....	All.
1871.....	875.....	All.
1872.....	104.....	All.
1872.....	116.....	All.
1872.....	209.....	All.
1872.....	649.....	All.
1873.....	361.....	All.
1873.....	397.....	All, except §§ 5, 11.
1873.....	698.....	All.
1874.....	35.....	All.
1874.....	245.....	All.
1875.....	130.....	All.
1875.....	267.....	All, except § 7.
1875.....	343.....	All, except § 5.
1875.....	419.....	All.
1875.....	452.....	All.
1875.....	512.....	All.
1876.....	53.....	All.
1876.....	190.....	All.
1876.....	346.....	All.
1877.....	228.....	All.
1877.....	380.....	All.
1877.....	426.....	All.
1877.....	469.....	All.
1879.....	107.....	All.
1879.....	108.....	All.
1879.....	252.....	All.
1879.....	411.....	All.
1880.....	98.....	All.
1880.....	246.....	All.
1880.....	566.....	All.
1881.....	139.....	All.
1881.....	207.....	All.

Laws of	Chapter	Sections
1881.....	254.....	All.
1881.....	388.....	All.
1881.....	412.....	All.
1881.....	428.....	All.
1881.....	497.....	All.
1881.....	526.....	All.
1881.....	641.....	All.
1883.....	446.....	All.
1884.....	68.....	All.
1884.....	433.....	All.
1884.....	436.....	All.
1885.....	66.....	All.
1885.....	88.....	All.
1885.....	474.....	All.
1886.....	30.....	All.
1886.....	236.....	All, except § 7.
1886.....	333.....	All.
1886.....	666.....	All.
1887.....	313.....	All.
1887.....	317.....	All, except § 7.
1887.....	501.....	All.
1887.....	506.....	All.
1887.....	645.....	All.
1888.....	293.....	All, except last sentence of § 2.
1888.....	299.....	All, except subdivision 5 of § 1.
1888.....	391.....	All.
1888.....	415.....	All.
1888.....	484.....	All.
1888.....	490.....	1, 2, 3, and first sentence of § 4.
1888.....	536.....	All.
1889.....	33.....	All.
1889.....	95.....	All, except § 4.
1889.....	301.....	All.
1890.....	27.....	All.

Laws of	Chapter	Sections
1890.....	68.....	All.
1890.....	104.....	All.
1890.....	118.....	All.
1890.....	229.....	All.
1890.....	425.....	All.
1891.....	10.....	All.
1891.....	167.....	All.
1891.....	213.....	All.
1891.....	344.....	All.
1891.....	382.....	All.
1892.....	197.....	All.
1892.....	291.....	All.
1892.....	333.....	All.
1892.....	498.....	All.
1892.....	597.....	All.
1893.....	34.....	All.
1893.....	180.....	All.
1893.....	465.....	All.
1893.....	602.....	All.

# COMMISSIONERS' MEMORANDUM

## EXPLANATORY OF

# THE MEMBERSHIP CORPORATIONS LAW.

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The Membership Corporations Law is a revision of existing statutes authorizing the formation of corporations for purposes other than pecuniary profit, except medical, dental and veterinary corporations, which are to be provided for in the Public Health Law; educational corporations, which are regulated by the University Law, and religious corporations, for which provision is to be made in a separate chapter, to be known as the religious corporations law.

The laws repealed by this chapter provide for the organization and government of various classes of benevolent, charitable, social and recreative corporations on the same general plan, but with great diversity in detail.

The reduction of such diversity of detail to a uniform system has been the leading principle in the construction of this chapter. The general corporation law already provides certain uniform provisions for the incorporation and government of these and nearly all other corporations. Such provisions of laws to be repealed by this chapter as are peculiar to particular classes of these corporations, as it has been deemed necessary to retain, are re-enacted, respectively, in articles II-XII of this chapter, while article I of this chapter represents the uniform general provisions common to them all. To effect such degree of uniformity many slight changes in nearly every class of such corporations have been found necessary, none of which, however, substantially disturb their methods of government or of accomplishing their corporate purposes. Thus, the uniform maximum number of signers of certificates of incorporation and of directors operates as an enlargement of the maximum number, in many cases,

and the uniform minimum number requisite operates in many cases as a reduction; and the scope of by-laws expressly authorized has been, in many cases, enlarged. By this system of revision many repetitions of substantially the same provision, with slight variations have been avoided, and a single uniform statement substituted.

This chapter includes what was originally proposed to be included in both the membership corporations law and the mixed corporations law.

The certificates of stock issued by most of the corporations classed as mixed corporations are, in reality, mere certificates of membership, issued on payment of membership fees and dues, and not entitling holders thereof to any dividends. A separate chapter for mixed corporations is, therefore, not necessary, and section 3 of the General Corporation Law may be amended by omitting the references to mixed corporations.

Several provisions, now applicable to corporations created by general laws only, are extended to corporations chartered by special laws. This will obviate the necessity of frequent applications for special legislation to accomplish the same result.

The commissioners believe the following to be the only other changes in the substance of existing law proposed by this chapter, besides those above referred to:

1. By section 4, a membership corporation, whether created by general or special law, is authorized to extend its corporate purposes by filing a supplemental certificate. This is new as to corporations created by special law and as to most corporations created by general law.

2. Section 5, authorizing the incorporation of unincorporated associations, is new as to all classes of such associations except political clubs and associations for training nurses.

3. Section 6, authorizing membership corporations created by special law to reincorporate under the general law and to be governed by it only, is new.

4. Section 7, authorizing corporations of the same, or of a kindred nature, to consolidate, is new as to all membership corporations.

5. Section 8, relating to by-laws, is broader in its terms than any law repealed by this chapter, and is for the first time made applicable to corporations created by special law.

6. Section 10, as to filling vacancies in boards of directors, is for the first time extended to corporations created by special law.

7. The provision of nearly all the laws repealed by this chapter, requiring the filing of an annual inventory, has been omitted, and instead, by section 11, the directors are required to report at the annual meeting.

8. The liability of directors where it now exists is not substantially changed by section 11, but such liability is extended uniformly to the directors of all membership corporations, as to many of which such a liability does not now exist.

9. The prohibitions contained in several laws on the officers or directors receiving compensation or being interested in corporate contracts, are omitted, and instead such compensation or interest is permissible, if authorized by the by-laws. (See section 12.)

10. By section 13 all membership corporations are required to obtain leave of the court to mortgage, purchase or sell real property, after the concurrence of two-thirds of the directors. In many of the existing laws, a vote of the directors at a meeting at which two-thirds are present, with leave of the court, is sufficient; while in others, a vote of the members is also necessary. The requirement of leave of the court is new as to some membership corporations.

11. Section 13, providing that the court may confirm a sale, etc., made without leave of court, but not so as to affect subsequent purchasers and incumbrances, is new.

12. The provision of section 13, authorizing any membership corporation to convey, without leave of court, parts of its real property to members for cottages, etc., is new, except as to social clubs.

13. Section 14, authorizing the changing of number of directors, is new as to many membership corporations created under laws repealed by this chapter. The extension of such provision to corporations created by special law is also new.

14. The provision of section 16, authorizing a judicial investigation of the affairs of a membership corporation on the application of an aggrieved member, is new.

15. By section 17, all membership corporations, except educational corporations subject to the Regents, receiving State money, are required to report to Comptroller. This is new, except as to corporations maintaining hospitals, orphan asylums and the like.

#### Cemetery corporations.

16. The provisions of section 45 authorizing a cemetery corporation to acquire land by condemnation, is new. The constitutional objection to such condemnation raised in *in re Deansville Cemetery Association*, 66 N. Y., 569, is obviated by section 49, which restricts the disposition of lands to use for burial purposes, and makes it obligatory on the corporation to allow every person, so desiring, to obtain the use of a lot, on reasonable terms and at the same price at which others may obtain the same privilege.

“It seems to be settled law that lands may be condemned for the purpose of a public cemetery, where the public in general have a right to obtain interment, and that lands taken for the purpose of enlarging a public cemetery is devoting it to a public use.” (*Farneman v. Mt. Pleasant Cem. Ass’n*, Ind. Sup. Ct., 35 N. E. Rep., 271, citing *Ass’n v. Beecher*, 53 Conn., 551; *Balch v. Com’rs*, 103 Mass., 106; *Edgecumbe v. Burlington*, 46 Vt., 218.)

17. The provision of section 47, authorizing a cemetery corporation to prescribe and collect penalties for a violation of its rules, is new.

18. Taxes levied on lot owners by a cemetery corporation, under section 52, are to be collected by treasurer of corporation, instead of by the school collector.

19. The power of cemetery corporations to hereafter issue shares of stock is not re-enacted, but the rights of holders of existing stock are preserved in section 55.

Chapter 133 of the laws of 1847, the original act for the incorporation of cemetery corporations, did not authorize the issue of stock, nor did it contemplate the running of such corporations

for profit. The entire surplus over the debts and expenses was to be expended in maintaining and improving the cemetery grounds. L. 1860, ch. 163, authorized the issue of certificates of indebtedness to creditors, entitling them, not to any dividend from the profits of the corporation, but merely to the principal and interest of the debt. Later, chapter 107 of the laws of 1875, authorized the exchange of the certificates of indebtedness for certificates of stock, the holders of the certificates of indebtedness, relinquishing the principal and interest of the debt and becoming entitled to all the profits of the corporation. Thus, by an indirect method, the original theory of the act of 1847 has been defeated. The commissioners doubt the desirability or propriety of allowing cemetery corporations to issue stock and become speculative concerns, and therefore report the repeal of the provision authorizing the issue of stock in exchange for certificates of indebtedness without re-enactment.

#### Prevention of cruelty corporations.

20. Section 70 requires certificate of incorporation of such corporations to be approved by the president of the New York Society for the Prevention of Cruelty to Children and the president of the American Society for the Prevention of Cruelty to Animals, respectively. This provision is new.

#### Boards of trade.

21. Under L. 1877, ch. 228, a board of trade could originally incorporate either as a membership corporation or a stock corporation. Section 130 only authorizes incorporation as a membership corporation. If the corporation desires to issue stock, it must incorporate under the business corporations law, instead of under this chapter. Incorporated boards of trade which have heretofore issued capital stock entitling holders thereof to dividends will be governed by the Business Corporations Law, the Stock Corporation Law and the General corporation law. Those not having issued capital stock will be governed by this chapter.

### Agricultural corporations.

22. Section 144 authorizes agricultural corporations originally incorporated as membership corporations to issue capital stock, but if this is done the corporation becomes subject to the business and stock corporations laws.

### Library corporations.

23. L. 1796, ch. 43, L. 1853, ch. 395, and L. 1875, ch. 333, authorizing the creation of library corporations are repealed by this chapter, but not re-enacted. Corporations heretofore incorporated under such laws will be subject to this chapter. Library corporations can be incorporated hereafter only by the regents, under the University Law. (L. 1892, ch. 378.)

24. The provisions of L. 1886, ch. 666, and L. 1887, ch. 313, relating to local appropriations for free circulating libraries have been repealed, but not re-enacted, as sufficiently provided for by the University Law, § 37.

The appendix following this chapter of the proposed revision contains all the statutes proposed to be repealed hereby. Cross references and notes explaining the principal changes in language, and all changes in substance, are appended to the several sections of the proposed revision and of the existing statutes set out in the appendix.

## APPENDIX TO THE MEMBERSHIP CORPORATIONS LAW

CONTAINING THE

### LAWS PROPOSED TO BE REPEALED THEREBY.

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(Laws 1796, chap. 43, R. S., 8th ed., 2033.)

Whereas, a disposition for improvement in useful knowledge has manifested itself in various parts of this state, by associating for procuring and erecting social and public libraries: And whereas it is of the utmost importance to the public that the sources of information should be multiplied and institutions for that purpose encouraged and promoted:

Section 1. Be it therefore enacted by the people of the State of New York, represented in Senate and Assembly, That from and after the passing of this act, it shall and may be lawful for any number of persons, not less than twenty, in any county, town, village or neighborhood, who shall subscribe in the whole not less than forty pounds, and who shall by writing under their hands signify their consent and desire to associate themselves together for the purpose of procuring and erecting a public library, to assemble on the second Tuesday of the month in which they shall determine to meet at a place previously agreed on by a majority of the subscribers, to elect, nominate and appoint not less than five nor more than twelve of their number as trustees, to take charge of the moneys belonging to the corporation thereby erected, and to transact all affairs relative to the same.

§ 2. And be it further enacted, That the said election to be held as aforesaid shall be conducted in the following manner, to wit: That whenever two-thirds of the subscribers shall assemble at the time and place previously agreed on and appointed, they shall proceed to elect a chairman by ballot from among themselves who shall preside at such election, receive the votes of the subscribers and be the officer to return the names of those who by plurality of voices shall be elected to serve as trustees for the said corporation; that the said returning officer shall immediately after said election, certify under his hand and seal the names of the persons elected to serve as trustees for said library, in which certificate the style, name or title of the said corporation (which shall for ever thereafter be the style, name or title by which the said corporation shall be distinguished and known), shall be particu-

(Laws 1796, ch. 43; R. S., 8th ed., 2034.)

larly mentioned and described, which said certificate being first duly proved or acknowledged before the chancellor of this state, or one of the judges of the supreme court, or any one of the judges of the court of common pleas of the county for the time being, in the same manner in which deeds or other writings have usually been proved or acknowledged, shall be forthwith recorded by the clerk of the county for the time being, in a book to be kept by him for that purpose, for which he shall receive a fee of eight shillings and no more.

§ 3. And be it further enacted, That the persons so elected, returned and registered, shall be and hereby are declared to be trustees for said library, and their associates, and such other persons as shall from time to time become members of the corporation hereby authorized to be erected, shall be and hereby are ordained, constituted, appointed and declared to be one body corporate and politic, in fact and in name, by the name, style or title mentioned and described in the said certificate so to be recorded as aforesaid, and by that name shall have succession, and they and their successors shall and may forever thereafter by the same name be able and capable in law to sue and be sued, implead and be impleaded, answer and be answered unto, defend and be defended in all courts of common law or equity whatsoever, in all manner of actions, suits, causes, controversies, matters and things whatsoever, and that they and their successors shall have a common seal, and may break, alter and change the same at their discretion; and also, that the said trustees and their successors by the same name and title described in said certificates from the time of their election aforesaid shall be capable in law of purchasing, holding and conveying any estate, real or personal, for the use of the said corporation: Provided, Such real and personal estate so held shall not at any one time exceed the annual value of five hundred dollars, exclusive of the books and of the annual payments which shall be directed to be made by the members of the said corporation.

[Library corporations are not authorized to incorporate under this chapter, but future incorporations must be made by the regents in pursuance of the University Law (L. 1892, ch. 378). Library corporations heretofore incorporated under L. 1796, ch. 43, will be governed by the general provisions of this chapter applying to all membership corporations. The general powers of such corporations are superseded by § 11 of the Gen. Corp. L. The power to hold property is superseded by Gen. Corp. L., § 12, which authorizes such corporations to hold property of the value of \$3,000,000, the clear annual income of which does not exceed \$250,000.]

(Laws 1796, ch. 43; R. S., 8th ed., 2034.)

§ 4. And for the better execution of the aforementioned purposes, Be it further enacted, That forever hereafter there shall not be less than five nor more than twelve trustees for every library so incorporated as aforesaid, who shall hold their offices for one year, and until others be elected in their places, and shall manage the business of the said corporation; and that there shall forever hereafter be one chairman of the said trustees, one treasurer and one librarian to be appointed in the manner hereinafter mentioned; and that it shall be lawful for the said trustees, in their discretion, whenever they conceive it necessary, to appoint one and the same person treasurer and librarian.

[Library corporations heretofore incorporated under this act will continue to have the same number of trustees, unless they change them pursuant to section 14 of this chapter. By section 29 of Gen. Corp. Law the directors are given the general power to manage the affairs of the corporation. The power to appoint a librarian is omitted. By section 8 of this chapter, the members can regulate the appointment of officers and employes by the enactment of by-laws.]

§ 5. And in order to keep up a perpetual succession of trustees, Be it further enacted, That the offices of the said first trustees shall determine in the following year on the second Tuesday in the same month in which they were chosen, and that on the first Tuesday in the same month in which the first election was held, in every year forever thereafter there shall be a general meeting of the members of the corporation at some convenient place to be from time to time ascertained and fixed by the by-laws of the said corporation, and that then and there by plurality of votes of such members as shall so meet, not less than five nor more than twelve trustees shall be elected by ballot to serve the ensuing year; that any person holding more than one right in said library shall be entitled to one vote for each right he or she shall hold in the same; that the trustees of the said library shall annually at their first meeting on or after the day in which their offices commence, appoint one of the said trustees their chairman; that in case of the death, removal, refusal or neglect to serve of the chairman for the time being, it shall be lawful for the trustees of the said library at any of their meetings to appoint another chairman instead of the one dying, removing, refusing or neglecting to serve as aforesaid, to remain in office till the expiration of the time during which his predecessor was entitled to serve; and when and as often as any vacancy shall happen by the death, removal, resignation or neglect to serve of any of the said trustees, it shall be lawful for the chairman of the said trustees, or on his neglect or

(Laws 1796, ch. 43; R. S., 8th ed., 2035.)

refusal for any other two of the said trustees, to summon a meeting of the members of the said corporation, at a place fixed by the by-laws of the said corporation for the purpose of electing another or other person or persons instead of such as shall have so died, removed, refused or neglected to serve as aforesaid, and that such person or persons so to be chosen trustee or trustees at such meeting as last aforesaid, shall respectively remain in office during such time as the person in whose stead such trustee shall be chosen would have done in case such death, removal or refusal had not happened, and no longer; and that the trustees of the said library shall, at every such annual meeting of the members of the said corporation, exhibit to the members a state of the said library, the minutes of the proceedings of the trustees during the year immediately preceding such meeting, with the treasurer's and librarian's accounts, stating the amount of receipts and expenditures during such year.

[Section 8 of revision provides that the by-laws may prescribe the manner of holding elections, filling of vacancies, who is entitled to vote, the number of officers, and the manner of choosing them. Section 10 of revision provides for filling vacancies in board of directors, where no by-law provides therefor. By section 11 of revision, the directors are required to make an annual report.]

§ 6. And be it further enacted, That the said trustees shall have stated meetings once in every quarter in every year, at such time and place as shall from time to time be appointed for that purpose, that the chairman or any two trustees of the said library for the time being shall and may from time to time, as occasion may require, summon and call together, at such place as shall from time to time be appointed by the by-laws of the said corporation, the trustees of the said library, giving them at least two days' previous notice of such meeting; that the chairman and a majority or more of the said trustees shall form a board of trustees, and that in the absence of the chairman, the trustees so met shall choose another to serve on that occasion, that the chairman shall have a casting vote and no other, that the chairman and a majority of the trustees so met shall have full power and authority to adjourn, from day to day, or for such other time as the business of the said corporation may require, and from time to time to appoint, and at their pleasure to displace a treasurer and librarian of the said library, and to appoint other or others in their stead and place, to ascertain the compensation to be allowed the treasurer or librarian or either of them for their service in their stations respectively, and to regulate and

(Laws 1796, ch. 43; R. S., 8th ed., 2036.)

appoint to them the said treasurer and librarian or either of them their respective powers, trusts and duties; to direct the application of moneys belonging to the said corporation to the purchase of such books and apparatus as they shall think proper, to the providing of a room or house for the safe keeping of the books of the said library, and to transact, do, manage and perform, in the name of the said corporation, all and every act and acts, thing and things whatsoever which shall be necessary to be done, and which the trustees of said library are by this law authorized to do; and to make, frame, constitute, establish and ordain, from time to time, and at all times hereafter, such laws, constitutions, ordinances and regulations for the government of the officers, members and servants of said corporation, for regulating the terms upon which the books of the said library shall be lent out both to the members of the said corporation and others, for fixing and ascertaining the times and places of the quarterly meetings of the said trustees, for altering, fixing and ascertaining the places of meeting of the members of the said corporation, for the election of trustees, for regulating the management and disposition of the books of the said library, and the moneys, funds and effects belonging to the said corporation, the mode of transferring rights in the said library from one person to another and all other the business and affairs whatever of the said corporation, as they or the major part of them so legally met shall judge best for the general good of said corporation, and for the more effectual promoting, increasing and preserving the said library, and the same or any of them to alter, amend or repeal, from time to time, as they or a major part of them so met shall think proper: Provided, such laws, constitutions, regulations or ordinances be not repugnant to the laws of this state.

【Section 8 of revision authorizes the adoption of by-laws, prescribing the time of meeting of directors. Otherwise the matter is left to the discretion of the directors under the general power to manage the affairs of the corporation. The general power of directing application of moneys, etc., is covered by general corporations law, section 29, authorizing the directors to manage the affairs of the corporation. The power to adopt by-laws in the first instance is vested in the members by section 8 of revision. But by section 29 of general corporation law, the directors are given the power to adopt a by-law, where the members have failed to do so.】

§ 7. And be it further enacted, That it shall and may be lawful for each and every of the members for the time being of the said corporation, his or her executors, administrators and assigns,

(Laws 1796, ch. 43; R. S., 8th ed., 2036.)

to give, sell, alien, assign, devise and dispose of their respective rights in the said library, and that their respective assigns shall be members of the said corporation, and shall be entitled to all and every the same rights and privileges in said library and said corporation as the original members are entitled to by this act: Provided, That a part of a right in said library shall not entitle the proprietor or owner thereof to any privilege whatsoever in said library or corporation.

[This section is omitted. By section 9 of revision it is provided that membership in a membership corporation is determined by the member's death, voluntary withdrawal or expulsion, and that thereon his rights and interests in the corporation cease, unless the by-laws otherwise provide.]

§ 8. And be it further enacted, That it shall and may be lawful at such meeting of a majority or more of the said trustees of the library for the time being, to make any by-laws, constitutions, or ordinances of the said corporation, to admit under the common seal of the said corporation such and so many persons, members of the said corporation, as they shall think beneficial to the said library, which members so admitted shall be entitled to have, hold, and enjoy all and every the same rights and privileges as the original members are entitled to by this act.

[Section 8 of revision authorizes the corporation to regulate by by-laws the admission and rights of members.]

§ 9. And be it further enacted, That each and every member of the said corporation for the time being, shall, on or before the first Tuesday in the month fixed for the election of trustees, annually pay to the treasurer of said library, for the use of the said corporation, the sum or sums which shall be fixed by the by-laws of said corporation, and that whenever any of the members of the said corporation shall neglect to pay the said annual sum, or any other sum which of right shall become due to the corporation, for the space of forty days next after the day on which the same ought to have been paid, that then the person or persons from whom the same shall be due, shall be precluded from exercising any of the privileges to which he became entitled by virtue of his being or becoming a member of the said corporation, until such sums shall be fully satisfied; and if such sums shall not be paid within two years after any such sums shall become due as aforesaid, that then and after

(Laws 1825, ch. 19; R. S., 8th ed., 2036.)

the expiration of two years from the time such payment shall become due, that the person or persons from whom the same shall become due, shall thereupon forfeit and be utterly excluded from all his, hers or their rights and privileges in the said library and corporation.

[All matter relating to fees and dues of members are fixed by by-laws adopted by the corporation, pursuant to section 8 of revision.]

(Laws 1825, chap. 19; R. S., 8th ed., 2036.)

Section 1. Be it enacted by the People of the State of New York, represented in Senate and Assembly, That it shall be lawful for the trustees of all library companies, formed by virtue of the act above entitled, to have stated meetings semi-annually or quarterly, at such time and place as shall from time to time be appointed by a majority of such trustees for such purpose, anything in the sixth section of the act hereby amended to the contrary thereof in any wise notwithstanding, and at such meetings to do and perform all duties which, in and by the said act hereby amended, they are empowered and authorized to do and perform.

[Section 29 of Gen. Corporation L. gives to the directors the general power to manage affairs of corporation, which includes the power of holding regular meetings.]

(L. 1841, ch. 169; R. S., 8th ed., 2018.)

§ 3. The New York State Agricultural Society and the several county agricultural societies now formed or which shall be formed in this state, during the continuance of this act, shall annually elect such and so many officers as they shall deem proper; and it shall be the duty of such officers annually, to regulate and award premiums on such articles, productions and improvements as they may deem best calculated to promote the agricultural and household manufacturing interests of this state, having especial reference to the net profits which accrue, or are likely to accrue, from the mode of raising the crop or stock, or the fabrication of the article thus offered, with the intention that the reward shall be given for the most economical or profitable mode of competition; provided always that before any premium shall be delivered, the person claiming the same, or to whom the same may be awarded, shall deliver in writing to the president of the society, as accurate a description of the process in preparing the soil, including the quantity and quality of the manure applied, and in raising the crop, or feeding the animal, as may be; and also of the expense and product of the crop, or of increase in the value of the animal,

(Laws 1841, ch. 169; R. S., 8th ed., 2018.)

with the view of showing accurately the profit of cultivating the crop, or feeding or fattening the animal.

【The first clause of section 3 is covered by section 8 of revision, which authorizes the by-laws to regulate the number of officers. The remainder of the section is re-enacted without change of substance in section 142 of revision.】

§ 6. The presidents of the several county societies, or a delegate, to be chosen by them annually for the purpose, shall be ex-officio members of the New York State Agricultural Society. (Thus amended by L. 1844, ch. 336.)

【Section 6 is re-enacted without change of substance in section 146 of revision.】

(L. 1847, ch. 133; R. S., 8th ed., 1935.)

Section 1. Any number of persons residing in this state, not less than seven, who shall desire to form an association for the purpose of procuring and holding lands to be used exclusively for a cemetery, or place for the burial of the dead, may meet at such time and place as they or a majority of them may agree, and appoint a chairmai and secretary by the vote of a majority of the persons present at the meeting, and proceed to form an association by determining on a corporate name by which the association shall be called and known; by determining on the number of trustees to manage the concerns of the association, which number shall not be less than six, nor more than twelve; and thereupon may proceed to elect by ballot the number of trustees so determined upon; and the chairman and secretary shall immediately after such election divide the trustees by lot into three classes; those in the first class to hold their office one year, those in the second class two years, and those in the third class three years. But the trustees of each class may be re-elected if they shall possess the qualifications hereinafter mentioned. The meeting shall also determine on what day in each year the future annual elections of trustees shall be held. Any association formed under this act, may in its articles of incorporation designate a certain percentage of avails received from the sale of lots (after the debts for the purchase of any lands for the association are paid) which shall be set aside, and remain as a permanent fund forever; the avails thus set apart shall be invested by the trustees of the association in safe securities, and the income, and the income only, to be used under the direction of the trustees for the improvement, preservation and embellishment of the cemetery grounds of the

(Laws 1847, ch. 133; R. S., 8th ed., 1935.)

association, and not for the purchase of lands nor the erection of buildings. The percentage of the avails received from the sale of lots to be thus set aside shall not in any case be reduced from, or below the percentage stated in its articles of incorporation. (As amended by L. 1893, ch. 34.)

【Section 1 is re-enacted without change of substance in § 41 of revision, except that maximum number of directors is made fifteen.】

§ 2. The chairman and secretary of the meeting shall, within three days after such meeting, make a written certificate, and sign their names thereto, and acknowledge the same before an officer authorized to take the proof and acknowledgment of conveyances in the county where such meeting shall have been held, which certificate shall state the names of the associates who attended such meeting; the corporate name of the association determined upon by the majority of the persons who met; the number of trustees fixed on to manage the concerns of the association, the names of the trustees chosen at the meeting and their classification and the day fixed on for the annual election of trustees; which certificate it shall be the duty of the chairman and secretary of such meeting to cause to be recorded in the clerk's office of the county in which the meeting was held, in a book to be appropriated to the recording of certificates of incorporation.

【That portion of § 2 prescribing what the certificate shall contain and where it shall be filed is contained in § 41 of revision which, however, requires the certificate to be acknowledged by seven or more persons instead of only by the chairman and secretary of the meeting. Nor does § 41 of revision require the names of all the associates attending the first meeting to be inserted in the certificate. The provision of section 2 relating to the manner of acknowledgment is not re-enacted as it is already covered by State Const. Law, § 15, while the provision relating to the recording of the certificate is not re-enacted.】

§ 3. Upon such certificate, duly acknowledged as aforesaid being recorded, the association mentioned therein shall be legally incorporated, and shall have and possess the general powers and privileges and be subject to the liabilities and restrictions contained in the third title of the eighteenth chapter of part first of the Revised Statutes. The affairs and property of such associations shall be managed by the trustees, who shall annually appoint from among their number a president and a vice-president, and shall

(Laws 1847, ch. 133; R. S., 8th ed., 1935.)

also appoint a secretary and a treasurer, who shall hold their places during the pleasure of the board of trustees; and the trustees may require the treasurer to give security for the faithful performance of the duties of his office; and shall have power to fill any vacancy in the office of president or vice-president occurring during the year for which they hold their office.—(Thus amended by L. 1852, chap. 280.)

[The first sentence is not re-enacted as it is covered by section 11 of the General Corp. L. The provision relating to the management of the property is covered by Gen. C. L., § 29; the remainder of the first clause of the second sentence is covered by section 8, which authorizes the by-laws to provide for the selection of officers. The provisions authorizing the directors to require security from the treasurer and to fill vacancies in the office of president and vice-president are not expressly re-enacted.]

§ 4. Any association incorporated under this act may take by purchase or devise, and hold, within the county in which the certificate of its incorporation is recorded, not exceeding two hundred acres of land, or such further quantity as the legislature has prescribed or may prescribe, to be held and occupied exclusively for a cemetery for the burial of the dead. Such lands or such parts thereof as may from time to time be required for that purpose shall be surveyed and subdivided into lots or plats of such size as the trustees may direct, with such avenues, paths, alleys, walks and ornamental plats as the trustees may deem proper, and a map or maps of such surveys shall be filed and kept in the office of the association open to the inspection of all persons. The trustees must fix and determine the prices of the burial lots or plats and the conditions and restrictions imposed upon the use of such lots or plats, and keep a copy of the schedules of such prices and of such conditions and restrictions plainly printed and publicly posted in the principal offices of the association, open at all reasonable times to the inspection of all persons, and the trustees shall sell and convey the lots or plats designated on such maps upon payment of the prices so fixed and determined, subject to such conditions and restrictions as have been imposed upon the use of such lot or plats at that time adopted and thereafter to be adopted by the trustees of such association; provided, however, that the trustees shall not be required to sell and convey more than one lot or plat to any one person. But any city or town in which the lands of such association are situated and any incorporated village located wholly or in part in such town may purchase such reasonable number of lots or plats in such proper

(Laws 1847, ch. 133; R. S., 8th ed., 1936.)

portion of the lands of such association for the interment of strangers and other persons who may die in such town or village under such circumstances that it would be unreasonable to require payment for the privileges of making such interment; and such city, town or village or the county in which such lands are situated may also purchase other lots or plats as may be proper for the suitable burial of such soldiers as shall be buried at public expense. The conveyances shall be executed under the common seal of the association and signed by the president or vice-president and treasurer of the association. Any association incorporated under this act may hold personal property to an amount not exceeding five thousand dollars, or such further amount as the legislature has prescribed or may prescribe, besides what may arise from the sale of lots or plats.—(As amended by L. 1891, ch. 382.)

[The first sentence is re-enacted in section 45 of revision without change of substance. The second sentence relating to the surveys of lots is in section 46 of revision. The third sentence, relating to the prices of lots and the sale thereof is re-enacted in section 49 of revision, but the use only of the lot can be sold. The power of municipalities to purchase lots is omitted here. It properly belongs in the Gen. Municipal Law. The manner of executing conveyance is in section 49 of revision. The last sentence is omitted being covered by Gen. Corporation L., § 11, 12.]

§ 5. The annual election for trustees to supply the place of those whose terms of office expire shall be holden on the day mentioned in the certificate of incorporation, and at such hour and place as the trustees shall direct, at which election shall be chosen such number of trustees as will supply the places of those whose terms expire. But the trustees of any corporation organized under this act shall have power, by resolution of a majority of all of said trustees, to change the time for the annual election of trustees, as fixed in their act of incorporation; but no such resolution shall take effect until sixty days after the same shall have been published six successive weeks, once a week, in some newspaper published in the city or county where the cemetery of the said association is situated, and a copy of said resolution, certified by the president and secretary thereof, shall have been filed in the office of the clerk of the county where their certificate of incorporation is recorded. The trustees chosen at any election subsequent to the first shall hold their places for three years, and until others are chosen to succeed them. The election shall be

(Laws 1847, ch. 133; R. S., 8th ed., 1936.)

by ballot, and every person of full age who shall be proprietor of a lot or plat in the cemetery of the association, containing not less than ninety-six square feet of land, or if there are more than one proprietor of any such lot or plat, then such one of the proprietors as the majority of joint proprietors shall designate to represent such lot or plat, may, either in person or by proxy, give one vote for each plat or lot of the dimensions aforesaid, and the persons receiving a majority of all the votes given at such election shall be trustees to succeed those whose term of office expires. If at any such election one-fifth in number of the said proprietors shall not, in person or by proxy, vote thereat, then the trustees to be chosen shall be elected and chosen by the existing trustees, or a majority of them, unless such trustees to be chosen shall be elected and chosen by the voters of holders of unredeemed certificates or bonds given for the purchase or improvement of said cemetery grounds, pursuant to chapter one hundred and sixty-three of the laws of eighteen hundred and sixty; and the existing trustees shall, in all cases, hold their places until their successors are elected and qualified. But in all elections after the first, the trustees shall be chosen from among the proprietors of lots or plats. But no proxy shall be voted upon at any election for trustees that has not been executed within ten months prior to such election; and the trustees shall have power to fill any vacancy in their number occurring during the period for which they hold their office. Public notice of the annual elections shall be given in such manner as the by-laws of the corporation shall prescribe. (Thus amended by L. 1890 ch. 229.)

【The first sentence of section 5 is not re-enacted, as it is unnecessary. The time for holding the annual meeting may be changed pursuant to section 15, by filing supplemental certificate. The by-laws may prescribe the term of office of trustees. Section 13 of revision provides for who may vote at corporate meetings.

The time within which a proxy must be executed to be voted on is changed from ten to eleven months, unless otherwise provided in the instrument creating the proxy. (G. C. L., § 21.) Vacancies in the board of directors occurring other than by expiration of term, may be filled by the board until the next annual election instead of for the remainder of the term, pursuant to section 44 of revision. The provision that if less than one-fifth of the lot-owners or less than one-half of holders of stock certificates shall vote at an election of directors, the directors to be elected shall be chosen by a majority of the existing directors is not re-enacted, and the election of directors is left entirely with the members or stockholders. (See section 44.)】

(Laws 1847, ch. 133; R. S., 8th ed., 1936.)

§ 6. The trustees at each annual election shall make reports to the lot proprietors of their doings, and of the management and condition of the property and concerns of the association. If the annual election shall not be held on the day fixed in the certificate of incorporation, the trustees shall have power to appoint another day not more than sixty days thereafter, and shall give public notice of the time and place, at which time the election may be held with like effect as if holden on the day fixed on in the certificate. The office of the trustees chosen at such time to expire at the same time as if they had been chosen at the day fixed by the certificate of incorporation.

[By section 11 of revision the directors are required to make annual report. Section 24 of Gen. C. L. provides for holding elections where not held on day appointed.]

§ 7. All lots or parts of lots or plats which shall be conveyed by the association as a separate lot or plat, shall be indivisible, but may be held and owned in undivided shares; but any lots or plats or parts of lots or plats remaining unsold, and in which there shall have been no interment, may, by order of the trustees be resurveyed, enlarged, subdivided or altered in shape or size, and designated by numbers or otherwise on any map or maps which may be filed and kept pursuant to the fourth section of this act. One-half at least of the proceeds of all sales of lots or plats shall be first appropriated to the payment of the purchase money of the lands acquired by the association until the purchase-money shall be paid, and the residue thereof to preserving, improving and embellishing the said cemetery grounds and the avenues or roads leading thereto, and to defraying the incidental expenses of the cemetery establishment; and after the payment of the purchase-money and the debts contracted therefor, and for surveying and laying out the land, the proceeds of all future sales shall be applied to the improvement, embellishment and preservation of such cemetery, and for incidental expenses, and to no other purpose or object unless expressly authorized by law. Associations formed under this act may also agree with the person or persons from whom cemetery lands shall be purchased, to pay for such lands, as the purchase-price thereof, any specified share or portion not exceeding one-half the proceeds of all sales of lots or plats made from such lands, in which case the share or portion of such proceeds so agreed upon, not exceeding one-half thereof, shall be first appropriated and applied to the payment of the purchase-money of the land so acquired, and the residue thereof shall be appropriated to preserving, improving and embellishing the said cemetery

(Laws 1847, ch. 133; R. S., 8th ed., 1937.)

grounds, and the avenues, paths and roads therein and leading thereto, and to defraying the incidental expenses of the cemetery establishment. In all cases where cemetery lands shall be purchased and agreed to be paid for in the manner hereinbefore provided, the prices for lots or plats specified in the by-laws, rules and regulations first adopted by such associations, shall not be changed without the written consent of a majority in interest of the persons from whom the cemetery lands were purchased, their heirs, representatives or assigns. (Thus amended by L. 1879, chap. 108.)

【The first part of the above section is re-enacted in section 49 of revision, with the following change: Instead of being in divisible lots, may be divided with the consent of the lot-owner and the corporation. By section 46, the corporation is authorized to divide unsold lots or plats.

The remainder of the section is re-enacted without change of substance in § 50 of revision.】

[Section 8 repealed by L. 1886, chap. 593.]

§ 9. Any association incorporated pursuant to this act, may take and hold any property, real or personal, bequeathed or given upon trust, to apply the income thereof under the direction of the trustees of such association, for the improvement or embellishment of such cemetery, or the erection or preservation of any building, structures, fences or walls, erected or to be erected upon the lands of such cemetery association, or upon the lots or plats of any of the proprietors; or for the repair, preservation, erection or renewal of any tomb, monument, gravestone, fence, railing, or other erection, in or around any cemetery lot, or plat; or for planting and cultivating trees, shrubs, flowers or plants, in or around any such lot or plat, or for improving or embellishing such cemetery, or any of the lots or plats in any other manner or form, consistent with the design and purposes of the association according to the terms of such grant, devise or bequest.

【Section 9 is re-enacted without change of substance in section 45 of revision.】

[Section 10 is not repealed.]

§ 11. Whenever the said land shall be laid off into lots or plats, and such lots or plats, or any of them, have been transferred to individual holders, and after there has been an interment in a lot or plat, so transferred, or after the death of the holder or proprietor of any lot or plat, such lot or plat, from

(Laws 1847, ch. 133; R. S., 8th ed., 1938.)

the time of such first interment, or from the time of such death, shall be forever thereafter inalienable, and shall, upon the death of the holder or proprietor, descend to the heirs-at-law of such holder or proprietor and to their heirs-at-law forever, provided that any one or more of such heirs-at-law may release to any other of the said heirs, or any one or more of two or more joint-owners, may release to any other of the joint-owners, his, her or their interest in the same on such conditions as shall be specified in the release, a copy of which shall be filed in the office of the cemetery association; and provided, further, that the body of any deceased person shall not be interred in any lot or plat, unless it be the body of a person having, at the time of such decease, an interest in such lot or plat, or the relative of some person having such interest, or the wife or husband of such person, or his or her relative, except by the consent of all persons having such interest; and provided, further, that in case all bodies interred in any lot or plat shall be lawfully removed therefrom, the owner or owners of such lot or plat may apply to any special term of the supreme court held in the county where the cemetery of such association is situated, or in an adjoining county, for leave to sell the same. Notice of such application, with a copy of the papers upon which the same is founded, shall be given to all parties interested, including such association, as in case of ordinary motions, upon notice, brought before the said court; and the said court may, for proper cause shown, authorize the sale of such lot or plat. But after the death of the holder or proprietor of any lot or plat, or if there be more than one holder or proprietor, after the death of either or any of them, no such sale shall be authorized by the court, unless directed or authorized to be made in and by the last will and testament of said deceased. Any body interred in any lot and removed therefrom shall be deemed to be lawfully removed, within the meaning of this section, if such removal was with the consent of the cemetery association, on the written application of the executor, or widow, or widower; or nearest of kin of the deceased; or if such association refused such consent, then, in lieu thereof, the consent of any special term of the supreme court held in the county where the cemetery of such association is situated, or an adjoining county. At any time when application for such consent shall be made to any such special term, notice thereof, as in case of ordinary motions, upon notice, brought before the said court, with a copy of the papers upon which the same is founded, shall be given to said association and to such other parties as the court shall direct;

(Laws 1847, ch. 133; R. S., 8th ed., 1938.)

and the said court may, for proper cause shown, authorize the removal of such body. (Thus amended by L. 1880, chap. 566.)

【The first part of the section is in section 49 of revision, without change of substance. The provision restricting burials is in section 51 of revision. If no burials have been made in a lot or all the bodies have been removed, section 49 authorizes the lot owners to sell the lots, with the consent of the corporation. The provision that, after the death of the holder of a lot, it shall not be sold unless directed by his will, is omitted because it is believed that sale is sufficiently restricted if prohibited where a body is buried in the lot. There is no reason why an heir or devisee owning a lot in which no burials have been made should not sell as well as the original holder. Section 51 of revision provides for the removal of bodies from cemetery lots.】

§ 12. It shall be the duty of every rural cemetery association incorporated pursuant to this act to provide suitable lots and plats for the burial of the dead without interference with the portions of its grounds set apart for ornamental purposes, and from time to time acquire additional land for burial purposes, including such land as shall be proper for ornamenting the same, whenever such land shall be needed and the financial condition of the association shall warrant the expenditure required therefor. (As am. by L. 1891, ch. 382.)

【Section 12 is re-enacted without change of substance in § 45 of revision.】

§ 13. An accurate record of every interment in every cemetery belonging to such rural cemetery association shall be made by the trustees or other proper officers having control of the same, showing the date of the interment and the name, age and place of birth of the person buried, when these particulars can be conveniently ascertained; such record shall be so kept as to show the lot and part of the lot in which such interment shall have been made, and a copy of such record, duly certified by the secretary of such association shall be furnished on demand and payment of such fees therefor, as are allowed to county clerks for certified copies of records. (As am. by L. 1891, ch. 382.)

【Section 13 is re-enacted without change of substance in § 48 of revision.】

(L. 1848, ch. 299; R. S., 8th ed., 2020.)

§ 3. The New York state agricultural society, and the several county agricultural societies, now formed, or which shall hereafter be formed, and the American institute, shall annually elect

(Laws 1848, ch. 299; R. S., 8th ed., 2020.)

such officers as they may deem proper, and it shall be the duty of such officers annually to regulate and award premiums on such articles, productions and improvements, as they may deem best calculated to promote the agricultural and household manufacturing interests of this state, having special reference to the net profits which accrue or are likely to accrue from the mode of raising the crop or stock, or the fabrication of the articles offered with the intention that the reward shall be given to the most economical or profitable mode of competition; provided always, that before any premium shall be delivered, the person claiming the same, or to whom the same may be awarded, shall deliver in writing to the president of the society, an accurate description of the process in preparing the soil, including the quantity and quality of the manure applied in raising the crop and the kind and quantity of food in feeding the animal, as may be; also the expense and product of the crop, or of increase in value of the animal, with a view of showing accurately the profit of cultivating the crop, or feeding or fattening the animal.

【Section 3 is re-enacted without change of substance in § 142 of revision.】

§ 6. The presidents of county societies, or delegates to be chosen by them annually for the purpose, shall be ex-officio members of the New York State Agricultural Society.

【Section 6 is re-enacted without change of substance in § 146 of revision.】

(Laws 1848, chap. 319; R. S., 8th ed., 1922.)

Section 1. Any five or more citizens of full age, citizens of the United States, a majority of whom shall be citizens of and resident within this state, who shall desire to associate themselves for benevolent, charitable, literary, historical, scientific, missionary or mission or Sunday school purposes, or for the purpose of mutual improvement in religious knowledge, or for the furtherance of religious opinion, or for the purpose of promoting and cultivating the fine arts by establishing a gallery or collections of pictures and statuary, including other objects of the fine arts, and for the purpose of maintaining a library, or as a society for the prevention of crime, or for any two or more of such objects, may make, sign and acknowledge before any officer authorized to take the acknowledgment of deeds in the state, and file in the office of the secretary of state, and also in the office of the clerk of the county in which the business of such society is to be conducted, a certificate in writing, in which shall be stated the name or title

(Laws 1848, ch. 319; R. S., 8th ed., 1922.)

by which such society shall be known in law, the particular business and objects of such society, the number of trustees, directors or managers to manage the same and the names of the trustees, directors or managers of such society for the first year of its existence. And any corporation organized, or which may hereafter be organized under the provisions of this act, may from time to time change the title of the members of their managing board, or increase or decrease the number thereof to not less than five, on the consent in writing of not less than two-thirds of their number. A certificate of such change, executed as herein above provided for the original certificate, shall be filed with the original certificate; but neither such original certificate nor such amendment thereof shall be filed unless by the written consent and approbation of one of the justices of the supreme court of the district in which the place of business or principal office of such company or association shall be located, to be indorsed on such certificate; and no written consent or approbation shall be given by any justice of the supreme court, for the organization and incorporation of any society under this act for the care or disposal of any orphan, pauper or destitute children except upon the certificate in writing of the state board of charities approving of the organization and incorporation of such society, which certificate of such state board of charities shall be filed with the original certificate of such incorporation.—(Thus amended by L. 1883, chap. 446, superseding L. 1881, chap. 526.)

【The provisions in regard to organization of corporation and filing of certificate and approval thereof are substantially re-enacted in sections 30 and 31 of revision. The provision that the corporation may change title of its managing board is omitted. The provision that the directors or trustees may increase or decrease their number is superseded by section 14, which provides for an increase or decrease by vote of the members.】

§ 2. Upon filing a certificate as aforesaid, the persons who shall have signed and acknowledged such certificate and their associates and successors shall thereupon, by virtue of this act, be a body politic and corporate by the name stated in such certificate, and by that name they and their successors shall and may have succession and shall be persons in law capable of suing and being sued, and they and their successors may have and use a common seal, and the same may alter and change at pleasure; and they and their successors, by their corporate name shall, in law, be capable of taking, receiving, purchasing and holding real and personal estate for the purposes of their incorporation and for no other purpose, to an amount not exceeding in the aggregate

(Laws 1848, ch. 319; R. S., 8th ed., 1923.)

the sum of two million dollars in value; but the clear annual income of such real and personal estate shall not exceed the sum of two hundred thousand dollars; to make by-laws for the management of its affairs, not inconsistent with the Constitution and laws of this state or of the United States; to elect and appoint the officers and agents of such society, for the management of its business and to allow them a suitable compensation. (Thus amended by L. 1885, chap. 88, superseding L. 1872, chap. 649.)

【The general powers of the corporation are in G. C. L., § 11. The power to hold property not exceeding three million dollars in value, the clear annual income of which is not more than five hundred thousand dollars is in § 12, G. C. L.. Section 31 of revision provides that on filing the certificate the corporation is formed. The power to make by-laws is in § 8 of revision.】

§ 3. The society, so incorporated, may annually elect, from its members, its trustees, directors or managers, at such time and place, and in such manner as may be specified in its by-laws, who shall have the control and management of the affairs and funds of said society, a majority of whom shall be a quorum for the transaction of business, if not otherwise provided in the by-laws, except that no such purchase, lease or sale of real estate shall be made unless two-thirds of the whole number are present at the meeting at which it is ordered; and whenever any vacancy shall happen among such trustees, directors or managers, by death, resignation or neglect to serve, such vacancy shall be filled in such manner as shall be provided by the by-laws of such society. (Thus amended by L. 1853, chap. 487.)

【By § 8 of revision the corporation is given power to make by-laws regulating the election of officers. By § 29 of Gen. Corp. Law, the directors are given the management of the affairs of the corporation, and a majority is made a quorum unless the by-laws provide otherwise. By § 13 of revision, real property can only be sold on leave of the court on application of a majority of the members, whereas by this section two-thirds of the trustees seem to have such power.】

§ 5. The provisions of this act shall not extend or apply to any association or individuals, who shall, in the certificate filed with the secretary of state, or with the county clerk, use or specify a name or style the same as that of any previously existing incorporated society in this state. (Thus amended by L. 1861, chap. 239.)

【Omitted. Covered by G.C. L., § 6.】

(Laws 1847, ch. 319; R. S., 8th ed., 1923.)

[Section 6, relating to devises, is not repealed.]

§ 7. The trustees of any company or corporation organized under the provisions of this act, present at any meeting authorizing the contraction of any debt, and acquiescing in the passage of any resolution or order authorizing the same, shall be jointly and severally liable for any such debt, provided, a suit for the collection of the same shall be brought within one year after the debt shall become due and payable. (Thus amended by L. 1853, chap. 487.)

[Section 11 of revision makes the directors liable for debts contracted while directors, payable within one year, if a suit against the corporation for the collection of the same is brought within one year after the debt is due, and if after execution against the corporation is returned unsatisfied, a second suit is commenced against such directors within one year after the return of such execution.]

§ 8. All institutions formed under this act, together with their books and vouchers, shall be subject to the visitation and inspection of the justices of the supreme court, or by any person or persons who shall be appointed by the supreme court for that purpose, and it shall be the duty of the trustees, or a majority of them, in the month of December in each year, to make and file in the county clerk's office where the original certificate is filed, a certificate under their hands, stating the names of the trustees and officers of such association or corporation, with an inventory of the property, effects and liabilities thereof, with an affidavit that such association or corporation has not been engaged directly or indirectly, in any other business than such as is set forth in the original certificate on file.

[The visitation by supreme court is retained in § 16 of revision. The provision requiring the filing of an annual report is omitted. See notes to §§ 11 and 16.]

[Section 9 was repealed by Gen. C. L. of 1890.]

[Section 10 is the right to alter, amend or repeal.]

§ 11. The number of trustees, directors or managers in any corporation which may have been heretofore or which may hereafter be organized under the said act may be increased as follows: The existing trustees of any such corporation, or a majority thereof, shall make and sign a certificate declaring how many trustees, directors or managers the corporation shall have in the

(Laws 1848, ch. 319; R. S., 8th ed., 1924.)

future management of its business and stating the names of the new or additional trustees, directors or managers, which certificate shall be acknowledged or be proved by a subscribing witness, and shall be filed in the office of the secretary of state, and also in the office of the clerk of the county where the original certificate of incorporation was filed; and from and after the filing of such certificate, the trustees, directors or managers of such corporation shall be deemed increased to the number therein stated, and the persons so named shall be trustees until a new election of trustees, directors or managers shall be had according to said act and the by-laws or regulations of said corporation. (Added by L. 1875, chap. 452.)

【Section 14 of revision allows the members to change the number of directors, but the number can not be changed by the directors themselves as provided in this section.】

[There is no section 12 to this act. Section 13 was added as such.]

§ 13. The term of existence of any corporation which may have heretofore been or which may hereafter be organized under this act, may be extended in the following manner: The trustees of such corporation, or a majority of them, shall make and sign a certificate declaring the term, not exceeding fifty years, for which the said corporation is to be continued, which certificate shall be duly acknowledged, and be filed in the office of the secretary of state, and also a copy thereof in the office of the clerk of the county where the original certificate of incorporation was filed; and from and after the filing of such certificate and copy, the said corporation shall be deemed continued for the term of years therein specified. (Added by L. 1876, chap. 190.)

【By section 32 of Gen. C. L., a membership corporation can extend its existence with the consent of two-thirds of its members. This section 13 is omitted, and with all membership corporations the corporations under this law are brought within the provisions of the Gen. C. L.】

(Laws 1849, chap. 273; R. S., 8th ed., 1924.)

[Section 1 amends the act of 1848.]

§ 2. The trustees, directors or stockholders of any existing benevolent, charitable, scientific or missionary corporation may by conforming to the requirements of the first section of the act hereby amended, re-incorporate themselves or continue their exist-

(Laws 1853, ch. 395; R. S., 8th ed., 2037.)

ing corporate powers for the period limited by the act hereby amended, and all the property and effects of such existing corporation shall vest in and belong to the corporation so re-incorporated or continued.

**[Omitted as unnecessary as to corporations created by general laws repealed by this chapter. Corporations created by special law can re-incorporate under section 6.]**

(Laws 1851, ch. 358, amends L. 1847, ch. 133, § 5.)

(Laws 1852, ch. 280, amends L. 1847, ch. 133.)

(Laws 1853, ch. 152, amends L. 1847, ch. 133.)

(Laws 1853, ch. 339, impliedly repealed by L. 1855, ch. 425.)

(L. 1853, ch. 395; R. S., 8th ed., 2037.)

Section 1. Any number of persons, not less than three, residing in this State, may become incorporated as a joint-stock company for the purpose of founding, continuing and perpetuating a library of one or the other of the following descriptions, in the manner hereinafter mentioned.

§ 2. A general company, formed by virtue of this act, may be either a circulating library company or a reference library company. The books, manuscripts, maps, prints, coins, medals, paintings or other article of literary property or work of art of the first mentioned company, may either in whole or in part, as the trustees shall from time to time determine, be taken for use from the library rooms or buildings of the corporation. But no book, manuscript, map, print, coin, medal, painting, article of literary property or work of art, belonging to the second mentioned company, shall be taken, kept or used, out of the library rooms or buildings of the company, under any permission or pretense whatever, except for its repair or preservation, or for the purpose of being deposited in some other building of the company, should they change from one to another location, nor shall it be sold or exchanged, unless the company have an exact duplicate thereof.

§ 3. Such persons as are mentioned in the first section of this act, when desirous to form a library company under this act, may meet and appoint a chairman and secretary, by a vote of a majority of those present, and proceed to form one or the other of the descriptions of company specified in the second section of this act, by determining:

1. Upon the description of company they will form.

2. Upon a corporate name for such company, which shall include the word circulating or reference, as the description of the company may be.

(Laws 1853, ch. 395; R. S., 8th ed., 2037.)

3. Upon the number of trustees to manage the affairs of the corporation, not less than three or more than nine.

4. Upon the city or town of their county in which the library shall be located.

5. Upon the trustees for the first year.

6. Upon the day of the annual election thereafter, and the day the new trustees that may be elected shall enter upon office.

7. Upon the amount to be paid for a share of the stock to constitute a member, how much thereof shall be paid down, and the annual sum to be required by the company on each share of said stock.

【Library corporations can hereafter incorporate only under the University Law (. 1892, ch. 378), with the consent of the regents. Library corporations heretofore incorporated under this act of 1853, however, will continue subject to the membership corporations law, article one.】

§ 4. The chairman and secretary of the meeting shall, within three days thereafter, make a written certificate, and sign their names thereto, and acknowledge the same before an officer authorized to take the proof and acknowledgment of conveyances in the county where such library is to be located, which certificate shall state the time and place of such meetings, the names of those who attended the same and concurred in the proceedings, and the matters specified in the last preceding section determined upon by such meeting; and it shall be the duty of the said chairman and secretary to cause such certificate to be recorded in the clerk's office of said county, in a book appropriated to the recording of certificates of incorporation; and such original certificate, acknowledged as aforesaid, or the record thereof, or an exemplified or certified copy of such record, shall be evidence of any matter above authorized to be inserted therein, and which it shall contain.

§ 5. Upon such certificate being so recorded, the company mentioned therein shall be deemed to be legally incorporated, and shall have and possess the general powers and privileges of corporations, and be subject to the liabilities and restrictions contained in the third title of the eighteenth chapter of the first part of the revised statutes, so far as the same are consistent with this act.

【See note to § 3.】

§ 6. The business of the company shall be managed by its trustees, a majority of whom shall be a quorum; they shall be elected annually by the shareholders, and each of them, after

(Laws 1853, ch. 395; R. S., 8th ed., 2038.)

the first year, must be a shareholder; they shall annually appoint a president and vice-president from among their own body, and shall also appoint a treasurer, a secretary and librarian, who shall hold their offices during the pleasure of the trustees; and the treasurer and librarian may be required to give security for the faithful performance of the duties of their offices, respectively, and for the payment and delivery over to their successors, or other person or persons that may be directed by the trustees to receive the same, of the money and property intrusted to their care or custody, respectively; and the said trustees shall have power to admit members of the company who may apply for admission and become shareholders; to make calls for payment of the sums required to pay for the shares subscribed in such installments as they think proper; to establish other offices than those before mentioned; to appoint the officers thereto, and also all agents and servants deemed by them expedient for the company, but such offices and appointments shall only be during the pleasure of the trustees; to make by-laws and pass resolutions, and the same from time to time to repeal, renew or alter, for regulating the election of trustees and officers, for transferring shares of the stock of said company, for prescribing the evidence, the transfer thereof, and also the duties of the officers, agents and servants of the company, the security they shall give and the compensation, if any, for the care, use, increase and preservation of the library and other property of the company; also to procure, by purchase or donation, a proper lot and building for said library, with proper furniture and conveniences for the same and its use, and for the residence of its librarian or keeper thereof; also, to purchase, receive by gift or on deposit for use, any books, manuscripts, maps, prints, coins, medals, paintings and other literary articles and works of art for the library of the company, and generally to do any act necessary for the accomplishment of the objects of the corporation, not contrary to this act or to the constitution or laws of this state or of the United States.

[The first clause of this section relating to the management of the business and the number of directors constituting a quorum is not re-enacted, as it is already covered by § 29 of the Gen. Corp. L. The clause commencing "to establish other offices, etc." down to and including the words "and other property of the company," is not re-enacted as it is already covered by § 11 of the Gen. Corp. L. which authorizes the members to make the by-laws. The general powers conferred by this section are covered by the power of the directors to manage the affairs of the corporation and the power of the members to make by-laws.]

(Laws 1853, ch. 395; R. S., 8th ed., 2038.)

§ 7. Every person who shall be admitted a member of the corporation, with the right of voting, shall be the owner of at least one share of the stock thereof, for which he shall have paid the company all such sums of money as shall have been required to be paid thereon; and each member shall be entitled to one vote on every such share held by him, and standing in his name on the books of the company, and the shares shall be considered personal property, and pass and be transferable as such, subject, however, to the annual payments thereon, and to forfeiture for non-payment of calls or of annual payments, and to the provisions for regulating their transfer; and a certificate shall be granted to each shareholder for his shares, and no transfer shall be deemed valid, as between the shareholder and the company, until it is registered in some proper book to be provided by the company, which book shall be open to the inspection of any shareholder, in the library building, at all reasonable business hours in the day-time, and shall be evidence of the right to vote in case of dispute.

【Covered by power to make by-laws regulating the right of members to vote, section 8.】

§ 8. Each share in such library company shall be charged with the payment of such annual sum as may be agreed on at the formation of the company and mentioned in said certificate; and such annual payment may be increased by a majority of the votes of the persons holding shares, at a meeting of the trustees, holders, to be held at the library rooms, on notice of the trustees, specifying the proposed increase, published once a week, for four weeks, in at least one of the newspapers published in the county where the library is located, and posted, for a length of time, in the library room; but such increase shall not, at any one time, be made exceeding fifty per cent more than the last preceding annual charge, nor exceed, in all, twenty-five dollars per year. Half of the annual charge shall be payable on the first Monday of May, and half on the first Monday of November, in each year, such payments to become due on the first of the said days which shall occur after the shares shall have been created, or such annual payments have been increased; and the said semi-annual sums, when due, may be collected by suit, if deemed expedient, and if payment of any of them shall be neglected to be made (whether sued for or not) for five years, the share of which it may be chargeable may be declared by the trustees at any time thereafter, and while any part of it remains unpaid, to be forfeited, and shall thenceforth cease to be considered a share in the company, or to give any right or interest in said company to the holder or claim-

(Laws 1853, ch. 395; R. S., 8th ed., 2039.)

ant thereof. Shares of the company may also be declared forfeited by the trustees for non-payment of the calls of any installment at the time specified in such call, and with the like effect as in this section mentioned on forfeiture for non-payment of semi-annual charges where such forfeiture shall be declared.

[See note to last section.]

§ 9. The library of the company shall be open daily (Sundays and such holidays as the trustees shall, in their by-laws, specify, excepted), under the regulations of the trustees, for use by the shareholders, without requiring from them any other than the semi-annual payments aforesaid on their respective shares, and the trustees may prescribe the terms on which persons not shareholders may inspect, make researches in, and use said library, but subject, however, in case of a reference library, to the restriction against and punishment for the removal of any book, manuscript, map, print, coin, medal, painting or other literary article or work of art belonging to said library company from their library building.

§ 10. Any person who shall fail to return, at the expiration of the time prescribed for its use, destroy or injure any article or property of any library company incorporated under this act, shall be liable to damages to the full value of such article, and also to such further amount of damages as any court in which a suit may be prosecuted therefor may award, to be determined however by jury, in case the action is tried by jury; and in case any book, manuscript, map, coin, painting or other literary article or work of art shall be removed from the library building of any reference library company, except for its preservation or repair, or for the purpose of being deposited in some other building of the company, should they change from one to another location, the person so removing or assisting in so removing the same, and any trustee or officer of the company consenting to the removal thereof, or any person in possession thereof, after such removal, refusing to permit the same to be restored to such last mentioned library, shall be deemed guilty of a misdemeanor, and on being indicted therefor, no nolle prosequi, discontinuance or relinquishment of the indictment or prosecution shall be allowed, except upon the terms of paying all the costs to the people, and a certificate of satisfaction from the company under their corporate seal, and the signature of a majority of the trustees for the time being; and the book or article so removed shall still be the property of the company, and damages, as aforesaid in this section, may be recovered with costs in any court having cognizance of the suit; nor shall

(Laws 1853, ch. 395; R. S., 8th ed., 2039.)

anything herein contained affect any prosecution for a felonious taking of the property of such company.

[All of this section is omitted, with the exception of the penal provision, which is covered by Penal Code, section 647; the entire section relates to matters of internal government, which may be regulated by by-laws.]

§ 11. No reference library company shall be changed into a company of any other description by any act of the trustees or shareholders, except by the unanimous consent of such shareholders for the time being; and in case the legislature shall, without such unanimous consent, pass any law whereby the books, manuscripts, maps, prints, coins or medals, paintings, or other article of literary property, or work of art of such company, or any of them, shall be permitted to be removed from them, or used elsewhere than in its library rooms, every dissenting shareholder shall first be paid the full value of his shares in said company, to be ascertained by appraisers appointed as the legislature shall direct, and sworn to appraise all the property of such company at its full value; and any person who may have made any donation to said company, if living, or his personal representative, if the same be dead, shall be entitled first to receive back the article and articles given, if, when the act making the change is passed, it or any of them is or are possessed by the company; or if the donation was cash or real estate, to receive repayment of the cash and a reconveyance of the real estate or of the property for which such real estate may have been sold or exchanged.

[Omitted.]

§ 12. Any company incorporated under this act may take and hold real and personal property by gift, purchase, grant or devise; but any real estate, except such lot or lots as may be necessary or reasonably convenient for the library buildings and a residence for the librarian, shall be sold and disposed of by the trustees in one year after the title and possession thereof shall be vested in the company (the receipt of the rent thereof to be deemed as actual possession); and it shall not be lawful for the trustees to retain, uninvested or unappropriated to the legitimate objects of the company under this act, more than two thousand dollars for a longer period than three months at any one time.

[The first clause of section 12 is not re-enacted, as it is already covered by section 11 of the Gen. Corp. L. The remainder of the section is omitted.]

(Laws 1853, ch. 395; R. S., 8th ed., 2040.)

§ 13. Any library company incorporated under this act may, with the consent of two-thirds of the members, for the purpose of purchasing a site and erecting library buildings, or a residence for the librarian, borrow money upon the bond or bonds of such company, at a rate of interest not exceeding seven per cent per annum, and secure payment of the same by mortgage on such site and buildings; but no such company shall incur any debts except those which may be created as above provided for the purpose of purchasing a site for and erecting library buildings, for any other purpose than is above provided, except such taxes and assessments as shall be imposed upon its property according to law; and the trustees shall be liable jointly and severally for any debt not hereby authorized, which they shall have contracted for the company, while they were trustees, and may retain and apply sufficient of the cash, bonds, notes or other securities of the company to discharge them from such liability, so far as it may have been contracted for the legitimate purposes of the company under this act; but no board of trustees shall lawfully make any contract on account of the company, except for such site or buildings, or the payment of the moneys so borrowed, not to be performed during the year for which the board is chosen. (Thus amended by L. 1875, chap. 419.\*)

[The provision of § 13 authorizing the trustees to retain and apply sufficient of the cash, bonds, notes or other securities to discharge them from liability for debts lawfully contracted, is not re-enacted. The liability of directors is fixed by § 11 of revision.]

§ 14. If any election shall fail to be held on the day mentioned in said certificate for incorporation, it may be held on any other day determined on by the trustees, on a notice of not less than six days, signed by the president or a majority of the trustees, and posted during that time in the library room; and the trustees chosen at such special election shall hold their offices as if they had been chosen on the annual election day. Any vacancy in the office of trustee, occurring between the days of annual election, may be supplied by a majority of the trustees remaining in office, at any meeting duly held by them, and the person so chosen shall hold as if chosen at the day for the annual election next preceding such choice.

[Omitted as being covered by Gen Corp. L., § 23.]

(L. 1853, ch. 487, amends L. 1848, ch. 312.)

(Laws 1854, ch. 50; R. S., 8th ed., 1924.)

Section 1. It shall be lawful for the supreme court of this state, upon the application of any benevolent, charitable, scien-

(Laws 1854, ch. 112; R. S., 8th ed., 1945.)

tific or missionary society, incorporated by law, in case it shall deem it proper, to make an order for the mortgaging of any real estate belonging to said corporation, and to direct the application of the moneys arising therefrom, by the said corporation, to such uses as the same corporation, with the consent and approbation of the said court, shall conceive to be most for the interest of the society for which the real estate so mortgaged belongs.

【By § 13 of revision the property of a membership corporation may be mortgaged by leave of the court and by the concurring vote of at least two-thirds of its directors.】

(L. 1854, ch. 112; R. S., 8th ed., 1945.)

Section 1. Private or family cemeteries may be incorporated in the manner hereinafter prescribed.

【Section 1 is not re-enacted in form.】

§ 2. Any number of persons desirous of availing themselves of the provisions of this act may purchase or set off, for a private cemetery, land to the extent of not more than three acres; and after inclosing the same shall cause to be published in a newspaper printed in the county where the land is situated, or if there be no newspaper printed in that county, then in one printed in an adjoining county, a notice that a meeting of the proprietors of the land so purchased or set off will be held at a time and place designated, such notice to be published at least once in each week for six weeks successively next previous to the time of meeting; such meeting shall consist of not less than seven of said proprietors, and shall then and there elect not less than three of their number as trustees to manage the affairs of such corporation for a period of five years; and in case of the death or resignation of either of said trustees, the surviving or remaining trustees shall be authorized to fill the vacancy for the residue of the term from the members of the corporation, and at the end of said term new trustees shall be chosen in the same manner.

【The provision in § 2 relating to the publication of notice of meeting is not re-enacted. The remainder of the section is re-enacted, without change of substance, in § 56 of revision.】

§ 3. The chairman and secretary of the meeting shall make a written certificate and sign their names thereto, and acknowledge the same before an officer authorized to take the acknowledgment of deeds, containing the names of said trustees and the title of said corporation, and a description of the land, and shall file the same in the office of the clerk of the county in which the land so set apart is situated, and thereupon the said proprietors shall

(Laws 1847, ch. 133; R. S., 8th ed., 1935.)

be deemed legally incorporated, and shall possess the general powers and be subject to the general liabilities which corporations by law possess and are subject to; a certified copy of such certificate shall be evidence in all courts and places of the formation of such corporation.

【The provision relating to the powers and liabilities of the corporation is not re-enacted, as it is covered in § 11 of the Gen. Corp. Law. The provision making a certified copy of the certificate of incorporation evidence is not re-enacted, as it is already covered by § 9 of the Gen. Corp. Law. The remainder of the section is re-enacted, without change of substance, in § 56 of revision.】

§ 4. No cemetery shall be established under this law that shall not be inclosed by a suitable fence or wall, nor shall such cemetery be hereafter located at a less distance than one hundred rods from any dwelling-house, without the written consent of the owner or owners thereof.

【Section 4 is re-enacted in § 56 of revision.】

【Section 5 repealed by L. 1886, ch. 593.】

§ 6. Cemeteries which have heretofore been used for private or family interments may be incorporated under the provisions of this act, subject to the provisions and conditions therein prescribed.

【Section 6 is re-enacted without change of substance in § 56 of revision.】

§ 7. It shall be lawful for any person to set apart or dedicate by deed, or devise by will, land to be used exclusively for a family cemetery or burial place for the dead, to appoint trustees to manage the affairs of such cemetery, to direct and prescribe the manner of appointment of such successors in such trusteeship, to set apart and grant to such trustees and their successors personal property or money to constitute a fund to be used, either the principal or the interest thereof, or both, for the purpose of improving, maintaining in good order and condition, and adorning such cemetery or burial place, subject to and in accordance with the directions of the grantor or testator in such deed or will; but the lands so set apart, dedicated or devised, shall not in any case exceed the quantity limited by this act, nor shall the fund so set apart and granted as aforesaid by will, exceed ten per cent of the clear value in excess of the debts and liabilities.

(Laws 1847, ch. 133; R. S., 8th ed., 1937.)

ties, other than legacies, of the estate of the testator; nor shall the land, property or money set apart and devoted by deed or otherwise under this act to the purposes of a cemetery, as in this and the subsequent section provided, be exempt from levy and sale under execution, except as now or hereafter exempt by law. (Added by L. 1871, chap. 68.)

**[Section 7 is re-enacted in § 57 of revision.]**

§ 8. The executors, administrators or trustees of the estate of any deceased person may, upon the written authorization and direction thereto of all the surviving heirs, legatees, devisees and next of kin of the testator or intestate, executed in person or by heir lawful attorneys or general guardians, set apart, to be used exclusively as a family cemetery or burial place for the dead, suitable lands of the testator or intestate, or purchase with funds of the estate under their control suitable lands for such purpose, appoint trustees to manage the same, and direct and prescribe the manner of appointment of their successors, set apart and pay to the trustees so appointed by them, from the funds of the estate under their control, personal property or money, or both, of the value and to an amount limited in the authorization and direction aforesaid, to constitute a fund to be used, either the principal or the interest thereof, or both, for the purpose of improving, maintaining in good order and condition, and adorning such cemetery or burial place, subject to and in accordance with the rules and directions contained in the written authorization and direction aforesaid; but the quantity of land so set apart shall not exceed the limit prescribed in the foregoing section. (Added by L. 1871, chap. 68.)

**[Section 8 is re-enacted without change of substance in section 57 of revision.]**

§ 9. The trustees appointed in accordance with the provisions of section seven, or of section eight of this act, shall, before entering upon their duties as such trustees, file in the office of the clerk of the county in which the land set apart and dedicated for cemetery and burial purposes under section seven or section eight of this act is situated, their written acceptance of their appointment as such trustees, together with a copy of the deed or will, or written authorization and direction under which their appointment shall have been made, and together with a certificate signed by all the trustees who shall accept and agree to serve, and acknowledge before an officer authorized to take the acknowledgment of deeds, containing a description of the land so set apart, the title

(Laws 1847, ch. 133; R. S., 8th ed., 1937.)

of the corporation thus proposed to be organized under this act, and the names of the trustees thereof; thereupon the said trustees and their successors shall be deemed legally incorporated, with all the rights and powers and subject to the liabilities of other corporations under this act; a certified copy of such certificate shall be evidence in all courts and places of the formation of such corporation. Said trustees and all successors thereof, shall before receiving the property, money and fund as herein provided for improving, maintaining and adorning the cemetery under their charge, execute to the surrogate of the county in which it is situated, a bond with sureties, approved by the surrogate, in the penal sum of twice the principal sum of the fund placed in their charge, conditioned for the faithful preservation and application thereof, according to the rules, directions or by-laws prescribed in the instrument under which their appointment shall have been made, and from time to time renew their bond or execute a new bond whenever required so to do by said surrogate; they shall, also, at least once in each year, and oftener if required by the surrogate, file with him their account of receipts and expenditures on account of the fund in their hands, together with vouchers for all disbursements by them; they shall have the general care and management of the cemetery under their charge, subject to the rules and directions contained in the instrument or instruments by or under which their appointment shall have been made, and shall be subject to removal for neglect of duty or malfeasance in office in the same manner as trustees of other corporations. (Added by L. 1871, chap. 68.)

【The provision making a certified copy of the certificate of incorporation evidence is not re-enacted, as it is covered by section 9 of the Gen. Corp. L. The remainder of the section is re-enacted without change of substance in section 57 of revision.】

§ 10. Additional adjoining lands may be acquired by purchase by any private or family cemetery now or hereafter organized under the provisions of this act to an extent not to exceed three acres in all; but no additional lands so purchased or otherwise acquired shall be used for the purpose of burial, within three hundred feet of any dwelling, without the written consent of the owner or owners thereof. (Added by L. 1877, chap. 469.)

【Section 10 is re-enacted in section 56 of revision as to private cemetery corporations without change of substance, but not re-enacted as to family cemetery corporations.】

【Section 11 is not repealed.】

(L. 1855, ch. 425; R. S., 8th ed., 2015.)

Section 1. Any ten or more persons of full age, citizens of the United States, and a majority of whom shall be citizens of this state, who shall desire to form a county or town agricultural society in any county, city or village in this state, may make, sign and acknowledge, before any officer authorized to take the acknowledgment of deeds in this state, and file in the office of the secretary of state, and also in the office of the clerk of the county in which the business of such society is to be conducted, a certificate in writing wherein shall be stated the name and title whereby such society shall be known in law, the particular business and objects of such society, the number of trustees, directors or managers to manage the same, and the name of such trustees, directors or managers thereof for the first year of its existence. If any such certificate shall fix the period of the existence of any corporation or society formed under this act, such corporation or society may, at any time within three years before the expiration of such period, extend the term of its existence beyond the time specified in such original certificate or in any certificate of extension of its corporate existence, by the consent of the stockholder owning two-thirds in amount of its capital stock, or if not a stock corporation, by the consent of two-thirds of its members, in and by a certificate signed and acknowledged by them and filed in the offices in which the original certificates of its incorporation were filed; and the officer with whom the same may be filed shall thereupon record them in the books kept in their respective offices for the record of such certificates, and make a memorandum of such record in the margin of the record of the original certificate, if recorded, and thereupon the term of existence of such corporation or society shall be extended as designated in such certificate, for a term not exceeding the term for which it was incorporated in the first instance. (As amended by L. 1891, chap. 10.)

[The provisions of section 1, specifying the number of incorporators and the contents of the certificate of incorporation are re-enacted without change of substance in section 140 of revision. The provision specifying the qualifications of incorporators is not re-enacted, as it is already covered by section 4 of the Gen. Corp. L., while that portion stating where the certificate of incorporation shall be filed is covered by section 5 of the Gen. Corp. L. The remainder of the section is not re-enacted, as it is already covered by section 32 of the Gen. Corp. L.]

§ 2. Upon filing the certificate as aforesaid, the persons, who shall have signed and acknowledged such certificate, and their associates and successors, shall thereupon, and by virtue of this

(Laws 1855, ch. 425; R. S., 8th ed., 2015.)

act, be a body politic and corporate by the name stated in such certificate, and by that name they and their successors shall and may have succession. and shall be persons in law, capable of suing and being sued, and they and their successors may have and use a common seal and may change and alter the same at pleasure, and they and their successors, by their corporate name, shall in law be capable of taking and securing, hiring, leasing and underletting, purchasing and holding real estate for the purposes of their incorporation and for no other purpose, to a sum not exceeding the sum of thirty thousand dollars in value, and personal estate for like purposes to an amount not exceeding ten thousand dollars, and to make by-laws for the management of its affairs, not inconsistent with the laws of this state or of the United States, provided that no more property be exempt from taxation than is now allowed in the general law authorizing the incorporation of county and town agricultural societies. (Thus amended by L. 1881, chap. 207.)

【Section 2 is not re-enacted. The provision specifying the powers of the corporation is covered by section 11 of the Gen. Corp. L., while the provision specifying the amount of real and personal property the corporation may hold is entirely omitted.】

§ 3. Any person who shall pay into the treasury of said society such sum as the by-laws of said society shall require, of not less than ten dollars, may be a life member of said society, with all the privileges of an annual member thereof.

【Omitted, as being covered by the power to make by-laws regulating admission of members, etc. See section 8 of revision.】

§ 4. Any person who shall pay into the treasury of said society annually a sum not less than fifty cents, as prescribed by the by-laws of said society, shall be a stockholder and entitled to all the privileges and immunities thereof, or any society may by a majority vote, and by filing a certificate to that effect in the county clerk's office of the county where it is located, divide the amount of real and personal property authorized by section two of this act into shares of not less than ten dollars each, and sell the said shares at not less than the par value thereof, to raise money for the purposes contemplated in this act, or may cause books to be opened by said directors for the subscription of capital stock to said corporation at such time and places and in such manner as they may deem best. The capital stock of said corporation to be subscribed for under this section shall not exceed forty thousand dollars, and shall not be less than five thousand dollars, and shall be divided into shares of ten dollars each, and shall be

(Laws 1855, ch. 425; R. S., 8th ed., 2016.)

paid in cash by the subscribers thereto at the time of such subscription; and the moneys so raised shall be subject to the provisions of section two of this act, and any person owning one or more of said shares of stock shall be a member and stockholder of said society, and may have one vote for each share so owned by him at any stockholders' meeting of said society. Dividends may be made from the earnings of said society and paid to the owners of said stock to the amount of twenty per centum per annum, but no such dividend shall be made when the society is in debt. (Thus amended by L. 1881, chap. 207, superseding L. 1876, chap. 346.)

【The provision authorizing the corporation to divide its property into shares and sell the shares is not re-enacted. By section 144 of revision, the corporation is authorized to issue stock, but on doing so, the corporation becomes subject to the Stock. Corp. L., and not to article one of this chapter.】

§ 5. The officers of said society shall consist of a president, and at least one vice-president, a secretary, a treasurer, and not less than six or more than fifteen directors. The president, vice-president, treasurer and secretary shall be elected annually, and the first year be a full board of directors. The board of directors shall be divided by lot into three classes; the first class to serve one year, the second class two years, and the third class three years; and at the expiration of each term there shall be elected one-third of the directors for three years, and all vacancies that may occur to be filled only for the term made vacant. The election of all officers shall be by ballot of the stockholders or members, who shall have been such, not less than thirty days prior to such election. The board of managers shall consist of the president, the first vice-president, secretary, treasurer and directors, a majority of whom shall constitute a quorum for the transaction of business; and it shall be the duty of said officers to so manage the property and concerns of the said society, as will best promote the interests of agriculture, horticulture and mechanic arts; and they shall hold annual fairs and exhibitions, and distribute premiums to the best and most meritorious exhibitors in their several departments.— (Thus amended by L. 1884, chap. 436.)

【The provisions relating to the management of the property and to the holding of fairs and distribution of premiums are re-enacted without change of substance in section 142 of revision. The provisions as to what officers the corporation may have is omitted as covered by section 8, authorizing the corporation to make by-laws on that subject. Section 5 makes the board of

(Laws 1855, ch. 425; R. S., 8th ed., 2016.)

managers consist of the president, etc., and the directors. This is omitted. The directors become the board of managers under the provisions of section 29 of the Gen. Corp. L.]

§ 6. There shall be but one county society in any one county in this state; nor shall there be more than one society in any town therein; but any two, or three or four towns may join and organize a society for the same, but the organization of such society by an association of towns shall not be held to prohibit the organization of any town society, or either one of such town societies. (Thus amended by L. 1881, chap. 388.)

[Section 6 is re-enacted without change of substance in § 141 of revision.]

§ 7. The said societies may, in case the uses and conveniences thereof so require, upon application to the supreme court of the district wherein said county at the time of such application shall be situated, obtain the requisite order and power to sell or mortgage, from time to time, the whole or any part or parts of its real estate: the granting of such order to be in the discretion of the court, and such application to be made only when authorized by said society, at an annual meeting thereof, by a vote of not less than two-thirds of the legal members of said society present at such meeting, and notice of the intention to vote for such application having been published in three of the newspapers printed in said county once a week for three months preceding such annual meeting. (Thus amended by L. 1887, chap. 506.)

[Section 13 authorizes the court to permit sale or mortgage of real property of membership corporation on the concurring vote of two-thirds of the directors.]

§ 8. The officers of any society organized under the provisions of this act, shall be jointly and severally liable for all debts due from said society, contracted while they are officers thereof, provided a suit for the collection of the same be brought within one year after the debt shall become due and payable.

§ 9. The president, secretary and treasurer of said society shall annually, on or before the first day of February, make out and transmit to the secretary of the state agricultural society at Albany, a statement of the transactions of said society for the year, giving a full detail of the receipts and expenditures thereof, with a list of premiums awarded and to whom and for what purpose, and the same shall be subscribed and sworn to by said

(Laws 1855, ch. 425; R. S., 8th ed., 2017.)

officers, before some person authorized to take the acknowledgment of deeds, as being a just and true statement within the spirit, true intent, and meaning of this act.

【The liability of the officers provided by § 8 is covered by § 11 of revision. Section 9 is re-enacted without change of substance in § 145 of revision.】

§ 10. Every society formed under this act shall possess the power and be subject to the provisions and restrictions contained in the third title of the eighteenth chapter of the Revised Statutes; and shall also possess the power of fixing and determining the place at which the annual fairs and exhibitions of said society shall be held, by a two-thirds vote of the members present voting in the affirmative at any regular meeting of said society, or at any special meeting thereof duly called, notice of the time and place of holding the same having been duly published for four weeks immediately preceding said meeting in two newspapers printed in said county. (Thus amended L. 1884, chap. 340.)

【The provision relating to the powers and restrictions is covered by § 11 of Gen. Corp. L. The power granted in the remainder of the section is included in the general power of the members to make by-laws, and is omitted here.】

(L. 1857, ch. 302, amends L. 1848, ch. 319.)

(L. 1857, ch. 531, amends L. 1855, ch. 425.)

(Laws 1859, ch. 36; R. S., 8th ed., 2017.)

Section 1. The board of managers or executive committee of any agricultural or horticultural society of this state is hereby authorized to appoint as many citizens of this state policemen as shall be necessary for their exhibitions, whose duty it shall be to preserve order within and around the grounds of said society, to protect the property within said grounds, to eject all persons who shall be improperly within the grounds of said society, or who shall be guilty of disorderly conduct, or who shall neglect or refuse to pay the fee or observe the rules prescribed by the society. Said policemen shall have the same power, during the time said exhibition shall continue, that a constable may have by law, in serving criminal process and making arrests. As amended by L. 1893, chap. 602.)

§ 2. Any justice of the peace of the county in which said grounds are situate, may, while on said grounds, hold a court of special sessions having the same duties, powers and jurisdictions over offenses committed on said grounds and within two hundred yards beyond the boundaries thereof, as is had by a court

(Laws 1859, ch. 36; R. S., 8th ed., 2017.)

of special sessions of a town of said county over offenses committed in that town. (As am. by L. 1893, ch. 603.)

§ 3. All fines and penalties received by a justice of the peace under the provisions of the foregoing section shall before the close of the fair and exhibition at which the same shall be received, be handed over by him to said society for its use and benefit, together with a report in writing of all proceedings had by him during said fair and exhibition; said report shall be in all respects the same as the usual account rendered for services in criminal proceedings by a justice of the peace of a town to the board of town auditors thereof; and he shall receive as his compensation therefor his legal fees out of the treasury of said society. (As am. by L. 1893, ch. 602.)

§ 4. The justice shall include in his annual report to the board the offenses committed and the proceedings had and the disposition made by him of all said fines and penalties. (As am. by L. 1893, ch. 602.)

§ 5. The justice shall enter in his regular criminal docket, kept and used by him in his said town, the full proceedings of all matters coming before him under this act, stating each case separately; and the record of said full proceedings shall be kept open for public inspection on said grounds during said fair and exhibition. (As am. by L. 1893, ch. 602.)

§ 6. This act shall take effect immediately.

【This chapter is re-enacted without change of substance in § 143 of revision.】

(L. 1860, ch. 163; R. S., 8th ed., 1939.)

Section 1. It shall be lawful for the trustees of any rural cemetery association organized under the act, entitled "An act authorizing the incorporation of rural cemetery associations," passed April twenty-seventh, eighteen hundred and forty-seven, and the acts amending the same, to fund any outstanding indebtedness, for lands purchased for cemetery purposes, or for moneys actually expended in preserving, improving and embellishing the cemetery grounds, and to provide for the payment of such funded debt, in the manner hereinafter provided.

§ 2. Whenever the trustees, by a vote of all the trustees elected, shall desire to fund such indebtedness, it shall be their duty to ascertain the amount of obligations outstanding for the purchase-money of the lands acquired by the association, and the amount of obligations for preserving, improving and embel-

(Laws 1860, ch. 163; R. S., 8th ed., 1940.)

lishing the cemetery grounds, and thereupon, with the consent of any creditor to whom such indebtedness, or any part thereof, may be due and owing, the said trustees shall have power to issue certificates for the amount thereof, in sums of one hundred dollars each, payable at such time and drawing such interest as may be agreed upon, in satisfaction and discharge of such indebtedness, or such part thereof, but no certificate shall be issued for any fractional part of one hundred dollars, nor drawing any higher rate of interest than seven per cent per annum. The said certificates shall be sealed with the corporate seal of the association, and signed by the president and treasurer thereof. They shall be deemed personal property, and shall be transferable by delivery, unless otherwise provided on the face thereof, and an exact and true account of the number and amount of the said certificates, the persons to whom issued, the time of maturity and the rate of interest, shall be accurately entered on the books of the association. Certificates issued by any rural cemetery association prior to April fifth, one thousand eight hundred and sixty, shall be as valid, and the holders, in addition to the rights secured to them by such certificates, shall have the same rights, powers and privileges as though such certificates were issued after said April fifth, one thousand eight hundred and sixty. (Thus amended by L. 1884, chap. 433.)

§ 3. The trustees shall keep a distinct and separate account in the cemetery books. of the certificates issued for the purchase-money of lands acquired by the association, and the certificates issued for debts incurred in improving and embellishing the cemetery grounds; and it shall be their duty, at least twice in each year, to apply the proceeds of all sales of lots and plats, in redemption of such certificates, severally, in the manner provided by the seventh section of the act hereby amended, and upon such redemption, they shall cancel the same on their books and destroy the certificates returned. Until the said certificates shall be redeemed, the holders of the same shall be entitled to vote at all elections and business meetings of the corporation, one vote for each and every certificate of one hundred dollars, held by such voter.

§ 4. Nothing in this act contained shall be construed to create a lien upon lots or plats belonging to individual proprietors, within the cemetery limits, nor any other or greater liability against the association or trustees issuing said certificates, than may be necessary to enforce the faithful application of the proceeds of sales, in the redemption thereof, in the manner aforesaid.

(Laws 1860, ch. 242; R. S., 8th ed., 2044.)

【This chapter is re-enacted in § 54 of revision with the following changes. A majority of the directors may fund. The amount of the certificates is changed from \$100 to \$25.

The certificate must be signed by the president and secretary instead of president and treasurer. That portion of § 2, describing the certificates as personal property is not re-enacted, as it is already covered by the Statutory Const. L., § 4.】

(Laws 1860, chap. 242; R. S., 8th ed., 2044.)

Section 1. Any five or more persons of full age, citizens of the United States, may associate, pursuant to "An act for the incorporation of benevolent, charitable, scientific and missionary societies," passed April twelfth, eighteen hundred and forty-eight, and the acts amendatory thereof, for the purpose of promoting and cultivating the fine arts, by establishing a gallery or collection of pictures and statuary, including other objects of the fine arts; and when associated, they shall be subject to the provisions of the aforesaid acts.

【Re-enacted in sections 30 and 31 of revision without change in substance.】

§ 2. Any fine art association so formed, may be capable of taking, by gift, devise, bequest or purchase, and of holding, for the purpose of their incorporation, and for no other purpose, real or personal property, exceeding in value the amounts limited by the said act, provided a justice of the supreme court of the district in which the principal office of such association shall be located, shall from time to time allow the same by an order to be entered on the records of the court, which shall also specify the limits fixed by said justice.

【By section 12 of Gen. C. L., membership corporations may acquire property of the value of \$3,000,000. The requirement of the consent of a justice of the Supreme Court to the acquisition of property is omitted.】

(Laws 1861, chap. 58; R. S., 8th ed., 1925.)

Section 1. It shall be lawful for the supreme court of this state, upon the application of three-fourths of the trustees of any benevolent, charitable, scientific, missionary society or orphan asylum incorporated by law, in case it shall deem it proper, to make an order for the leasing or sale and conveyance of any real estate belonging to such corporation, and to direct the application of the moneys arising therefrom by the said corporation to such

uses as to the said court shall seem to be most for the interest of the corporation to which the real estate so leased or conveyed belongs.

【This section allows court to order lease, etc., on application of three-fourths of the trustees. By section 13 of revision the real property can not be leased in any case without the concurring vote of two-thirds of the directors, nor for a term of more than three years, without leave of the court.】

(Laws 1861, ch. 94, amends L. 1847, ch. 133.)

(Laws 1861, ch. 95, amends L. 1855, ch. 425.)

(Laws 1861, ch. 239, amends L. 1848, ch. 319.)

(L. 1862, ch. 284; R. S., 8th ed., 2017.)

Section 1. In addition to the powers now vested by statute in the board of managers of any agricultural or horticultural association, the officers of such association shall have power to regulate and prevent all kinds of theatrical, circus or mountebank exhibitions and shows, as well as all huckstering or traffic in fruits, goods, wares and merchandise of whatever description, for gain, on the fair days, and within a distance of two hundred yards of the fair grounds of said association, if in the opinion of said officers, the same shall obstruct or in any way interfere with the free and uninterrupted use of the highway around and approaching such fair grounds; and the police employed by any such association shall possess the same power for a space of two hundred yards from said grounds, as is now vested in them by law within said grounds and be under the same control of the officers of the association within that space; and the same fines and penalties shall be incurred for any violation of the rules and regulations of said officers of any such association within two hundred yards of the fair grounds, as is now by law incurred for any violation of the rules and regulations within the grounds of any such association.

【This chapter is re-enacted without change of substance in section 143 of revision.】

(Laws 1862, ch. 302, amends L. 1848, ch. 319.)

(Laws 1864, chap. 419; R. S., 8th ed., 1925.)

Section 1. No moneys shall be paid from the treasury of this state pursuant to any act of the legislature making appropriation to any hospital, orphan asylum, benevolent association, educational, scientific, charitable, or other similar institution not under control of the state, until the president and secretary, or the managers of such institution, shall have made a report to the

comptroller of the operations, purposes, financial condition, expenditures and management of such institution. The said report shall bear date on the first day of October, in each year, and shall include the details of the action of the managers for the entire year previous, and particularly of the disposition of moneys appropriated by the legislature for the maintenance of said institution, and shall be verified by the affidavit of the officers making the same. It shall be the duty of the comptroller to withhold moneys appropriated for the benefit of any such hospital, asylum, association or institution, the managers of which shall not have complied with this requirement; and he shall transmit such reports, or a copy of them, to the legislature, together with his annual report.

【Re-enacted in section 17 of revision without change of substance, and applied to all membership corporations.】

(Laws 1865, chap. 368; R. S., 8th ed., 2021.)

Section 1. Any five or more persons of full age, citizens of the United States, a majority of whom shall be also citizens of this state, who shall desire to associate themselves for social, temperance, benefit, gymnastic, athletic, military drill, musical, yachting, hunting, fishing, batting or lawful sporting purposes, may make, sign and acknowledge before any officer authorized to take the acknowledgment of deeds in this state, and file in the office of the secretary of state, and also in the office of the clerk of the county in which the office of such society shall be situated, a certificate in writing, in which shall be stated the name or title by which such society shall be known in law, the particular business and object of such society, the number of trustees, directors or managers to manage the same, and the names of the trustees, directors or managers for the first year of its existence; but such certificate shall not be filed, unless by the written consent and approbation of one of the justices of the supreme court of the district in which the principal office of such company or association shall be located, to be indorsed on such certificate; but nothing in this act contained shall authorize the incorporation of any society or club for any purpose, repugnant to any statute of this state, or prohibited thereby. (Thus amended by L. 1865, chap. 668, and L. 1871, chap. 705.)

【Re-enacted substantially in §§ 30-31 of revision.】

§ 2. Upon filing a certificate as aforesaid, the persons who shall have signed and acknowledged such certificate, and their associates and successors, shall thereupon, by virtue of this act, be

(Laws 1865, ch. 368; R. S., 8th ed., 2022.)

a body politic and corporate by the name stated in such certificate, and by that name they and their successors shall and may have succession, and shall be persons in law capable of suing and being sued; and they and their successors may have and use a common seal, and may alter and change the same at pleasure; and they and their successors by their corporate name shall in law, be capable of taking, receiving, purchasing, leasing and holding real estate for the purposes of their incorporation, and for no other purpose, to an amount not exceeding the sum of five hundred thousand dollars in value, exclusive of the buildings and improvements thereon, and personal estate for like purposes, to an amount not exceeding the sum of one hundred and fifty thousand dollars in value, exclusive of the buildings and improvements on its said real estate and the furnishing of its club-house, but the clear annual income of such real and personal estate shall not exceed the sum of fifty thousand dollars; to make and adopt a constitution, by-laws, rules and regulations for the government of said corporation, and for the admission, voluntary withdrawal, censure, suspension and expulsion of its members, for the establishing and collection of the fees and dues of its members, the number and election of its officers, and to define their duties and compensation, and for the safe-keeping of its property, and from time to time to alter, modify or change such constitution, by-laws, rules and regulations; provided, however, that no constitution, by-laws, rules or regulations shall be made or adopted by said corporation which shall be inconsistent with the Constitution and laws of the United States or this state. The by-laws of any society or club for yachting purposes may provide that the qualified voters of such society or club be limited to the owners of yachts in such manner that the owners of each yacht shall, together, cast but one vote in the meetings of such society or club, and in the election of its officers, trustees, directors or managers. (Thus amended by L. 1877, chap. 380.)

【The provision that on filing certificate the corporation is formed is in section 31 of revision. The general powers of the corporation are in Gen. Corp. L., § 11. By section 12 of Gen. Corp. L., a membership corporation can hold property of the value of \$3,000,000, the clear annual income of which does not exceed \$500,000. The power to make by laws for various purposes is in section 11, Gen. Corp. Law, and section 8 of Membership Corp. Law. The provisions in relation to yachting clubs is re-enacted in section 8 of revision, without change in substance.】

(Laws 1865, ch. 368; R. S., 8th ed., 2022.)

§ 3. The society so incorporated may elect, from its members, its trustees, directors or managers; and the directors, trustees or managers so elected may divide the whole number of trustees, directors or managers into classes, so that not less than one-fourth of their number shall be elected annually after the first organization of any board of such trustees, directors or managers. Such elections may be held at such time and place, and in such manner as may be specified in the by-laws; and such board shall have the control and management of the affairs and funds of said society, a majority of whom shall be a quorum for the transaction of business; and whenever any vacancy shall happen among such trustees, directors or managers, by death, resignation or neglect to serve, such vacancy shall be filled in such manner as shall be provided by the by-laws of such society. The number of trustees in any corporation organized under this act may be increased to not more than twenty-one or diminished to not less than three, as follows: The existing trustees of any such corporation, or a majority of them, shall make and sign a certificate, declaring how many trustees the corporation shall thereafter have, and stating the names of such trustees for the present time, which certificate shall be acknowledged by the trustees signing the same, or proved by a subscribing witness, and shall be filed in the office of the clerk of the county where the original certificate of incorporation was filed, and a duplicate or transcript thereof duly certified under the official seal of such clerk, filed in the office of the secretary of state; and from and after the filing of such certificate and duplicate or transcript, the trustees of such corporation shall be deemed increased to the number therein stated, and the persons so named therein shall be trustees until a new election of trustees shall be had according to the said act, and the constitution, by-laws or regulations of such corporation. (Thus amended by L. 1885, chap. 66, superseding L. 1867, chap. 799, and L. 1873, chap. 698.)

[Section 10 of revision provides that the directors shall be elected from among the members. Section 8 of the revision authorizes the by-laws to provide for the classification of directors so that not less than one-fifth shall be elected annually. Gen. Corp. Law, § 29, fixes a majority of the directors as a quorum, and also provides that the directors shall have the general management of the corporation. Section 8 of revision provides that the by-laws may prescribe the method of filling vacancies. This section allows the trustees to increase their number to twenty-one or diminish it to three, while § 10 of revision only allows

(Laws 1865, ch. 368; R. S., 8th ed., 2023.)

the change to be made by a majority vote of the members at an annual meeting, and the number may be increased to not more than thirty or diminished to not less than three.】

§ 4. In case it shall at any time happen that an election of trustees, directors or managers shall not be made on the day designated by the by-laws, said society, for that cause, shall not be dissolved, but it shall and may be lawful on any other day to hold an election for trustees, directors or managers, in such manner as may be directed by the by-laws of such society.

【Fully covered by sections 23-26 of Gen. C. L., which require the directors to call and conduct a special election in such a case.】

§ 5. The provisions of this act shall not extend or apply to any association or individuals who shall, in the certificate filed with the secretary of state, or with the county clerk, use or specify a name or style the same as that of any previously existing incorporated society in this state.

【Gen. C. L., § 6.】

【Section 6. Take property by devise. Not repealed.】

§ 7. The trustees of any company or corporation organized under the provisions of this act, shall be jointly and severally liable for all debts due from said company or corporation, contracted while they are trustees, provided said debts are payable within one year from the time they shall have been contracted, and provided a suit for the collection of the same shall be brought within one year after the debt shall become due and payable.

【Re-enacted in section 11 of revision, with the additional condition, that execution against the corporation be returned unsatisfied and action be brought against the directors within one year after such return.】

§ 8. All institutions formed under this act, together with their books and vouchers, shall be subject to the visitation and inspection of the justices of the supreme court, or by any person or persons who shall be appointed by the supreme court for that purpose; and it shall be the duty of the trustees, or a majority of them, in the month of December in each year, to make and file in the county clerk's office where the original certificate is filed, a certificate under their hands, stating the names of the trustees and officers of such association or corporation, with an inventory of the property, effects and liabilities thereof, with an affidavit of the truth of such certificate and inventory, and also an

(Laws 1865, ch. 368; R. S., 8th ed., 2023.)

affidavit that such association or corporation has not been engaged, directly or indirectly, in any other business than such as is set forth in the original certificate on file.

【Visitation by supreme court is retained in § 16 of revision. The provision requiring the filing of annual report is omitted, but § 16 of revision provides for the filing of an inventory on order of supreme court, where it appears to the court by verified petition that there has been mismanagement by the directors.】

§ 9. Each corporation formed under this act shall possess the general powers conferred by and be subject to the provisions and restrictions of the third title of the eighteenth chapter of the first part of the revised statutes (except that each corporation so formed shall have the power to issue its stocks and bonds, or either, to an amount equal to the value of its real estate, provided, however, that prior to any such issue the value of said real estate shall be appraised on oath by three freeholders of the county in which such real estate is situated, approved by the county judge, and their appraisal filed in the county clerk's office, and in the principal office of said corporation, and for all issued in excess of said appraised value the officers, trustees, directors or managers issuing the same shall be jointly and severally liable). (Thus amended by L. 1877, chap. 380.)

【Section 11 of the General Corp. L prescribes the general powers of all corporations. By § 13 of revision, the real property of a membership corporation can be sold or mortgaged only on the concurring vote of two-thirds of the directors and leave of the court. Such section also provides that a mortgage may be so authorized to secure the payment of bonds issued to different persons. Section 8 of revision provides that the by-laws may regulate the participation in the affairs of the corporation to which bondholders shall be entitled.】

[Section 10. Power to repeal.] (Omitted.)

§ 11. It shall be lawful for any corporation duly created and organized pursuant to the provisions of this act in its by-laws to provide and determine what number of its members shall constitute a quorum for the transaction of business at its stated and at its special meetings, and to prescribe and determine the terms and conditions upon and subject to which its members shall and shall not be eligible to vote at its meetings and be trustees, directors, managers and officers thereof. The provisions of this act shall be deemed to apply only to such corporations or associations as have been formed under said chapter three hundred and

(Laws 1865, ch. 368; R. S., 8th ed., 2024.)

sixty-eight of the laws of one thousand eight hundred and sixty-five (as added by L. 1889, ch. 301).

【Re-enacted in section 8 of revision without change of substance.】

§ 12. It shall be lawful for any corporation duly created and organized pursuant to the provisions of this act in its by-laws to provide and determine what number of its members, not less than one-third, shall constitute a quorum for the transaction of business at its stated and at its special meetings, and to prescribe and determine the terms and conditions upon and subject to which its members shall and shall not be eligible to vote at its meetings and be trustees, directors, managers and officers thereof. The provisions of this act shall be deemed to apply only to such corporations or associations as have been formed under said chapter three hundred and sixty-eight of the laws of eighteen hundred and sixty-five. (Added as section 11 by L. 1887, chap. 645, and made section 12 by L. 1889, chap. 301.)

【Section 8 of revision without change of substance except that if one-third of the members is nine or more, any number not less than nine may be fixed as a quorum.】

(L. 1865, ch. 668, amends L. 1865, ch. 368.)

(L. 1866, ch. 273; R. S., 8th ed., 2058.)

Section 1. Any number of persons residing in this state, not less than three, who shall desire to form an association for the purpose of erecting a monument or monuments, to perpetuate the memory of soldiers and sailors who served in the late war in defense of the Union, may meet at such places as they may agree, and appoint a chairman and secretary, by a vote of a majority of the persons present at the meeting, and proceed to form an association by determining upon a corporate name by which the association shall be called or known, by determining on the number of trustees to manage the concerns of the association, which shall not be less than six nor more than twelve, and may thereupon proceed to elect by ballot the number of trustees so determined upon. (Thus amended by L. 1888, chap. 299.)

【Re-enacted in section 120 of revision, without change in substance.】

§ 2. The chairman and secretary of the meeting shall, within six days after such meeting, make a written certificate and sign their names thereto, and acknowledge the same before an officer authorized to take the proof and acknowledgment of conveyances

(Laws 1866, ch. 273; R. S., 8th ed., 2059.)

in the county where such meeting shall have been held, which certificate shall state the names of the associates who attended such meeting, the corporate name of the association determined upon by a majority of persons who met, the number of trustees fixed on to manage the affairs of the association, the names of the trustees chosen at the meeting, which certificate the chairman and secretary of such meeting shall cause to be recorded in the clerk's office of the county in which the meeting was held, in a book to be appropriated for the recording of certificates of incorporation. (Thus amended by L. 1888, chap. 299.)

【Re-enacted in section 120 of revision, without change in substance, but simplified to conform to general scheme of incorporation.】

§ 3. Upon such certificate, duly acknowledged as aforesaid, being recorded, the association mentioned therein shall be deemed legally incorporated, and shall have and possess the general powers and privileges, and be subject to the liabilities and restrictions contained in the third title of the eighteenth chapter of part first of the Revised Statutes, except that each subscriber shall be bound to pay only to the amount subscribed by him. The affairs and property of such association shall be managed by the trustees, who shall appoint from among their number a president, vice-president, secretary and a treasurer, who shall hold their places during the pleasure of the board of trustees; and the trustees may require the treasurer to give security for the faithful performance of the duties of his office, and if a vacancy shall occur in said board of trustees or in any offices by death, resignation, refusal to act or otherwise of any trustee or officer of said board, the then remaining trustees, at any legal meeting of said trustees, shall and may, and they are hereby authorized, and required, to elect and choose a fit person or persons to fill up and supply such vacancy or vacancies; provided, however, the then remaining members of said board of trustees shall have been notified that such vacancy or vacancies in such board or its officers will be then filled; and a majority of the then trustees shall be necessary to form a quorum for the transaction of business; and the services of said trustees and officers shall be gratuitous. (Thus amended by L. 1888, chap. 299.)

【Gen. Corp. L., section 11, prescribes the general powers of all corporations. Gen. Corp. L., section 29, provides that the directors shall have the management of the affairs of the corporation and that a majority of the directors shall constitute a quorum. The remainder of this section is fully covered by section 8 of revision, authorizing the adoption of by-laws for various purposes.】

(Laws 1866, ch. 273; R. S., 8th ed., 2059.)

§ 4. Any association incorporated under this act, or the act hereby amended, may take by purchase or devise or otherwise, and hold within the county in which the certificate of its incorporation is recorded, not exceeding five acres of land, to be held and occupied exclusively for the erection of a suitable monument or monuments to perpetuate the memory of the soldiers and sailors of the town, city or county in which such monument or monuments shall be erected, who served during the late war in defense of the Union, and such association may erect such monument or monuments upon any public street, square or ground of any town, city or village, with the legal consent of the proper officers of such town, city or village, or may purchase or accept the donation of any lands suitable for that purpose; and may take and hold any property, real or personal, devised, bequeathed or given upon trust, to apply the same or the income or proceeds thereof, under the direction of the trustees of such association, for the improvement or embellishment of such monument or monuments, or the erection or preservation of any structures, fences or walks erected or to be erected upon the lands of such association, or for the repair, preservation, erection, or renewal of such monument or monuments, fence or other structure, in, around or upon said lands, or for planting and cultivating trees, shrubs, flowers or plants, in, around or upon any such lands, or for improving, or embellishing the same in any manner or form consistent with the design and purposes of the association, according to the terms of such grant, devise or bequest; but the annual income of such estate, over and above the amount that may be expended in the purchase of grounds and in the erection of said monument or monuments, and in inclosing, laying out and ornamenting the same, shall not exceed the sum of five thousand dollars. (Thus amended by L. 1888, chap. 299.)

【Re-enacted in section 121 of revision without change in substance except that the limitation as to amount of annual income is omitted as unnecessary.】

【Section 5. Property exempt from taxation. Not repealed.】

§ 6. A tax may be imposed, levied and collected on the taxable property in any town or city in which such monument or monuments may be erected, for the purpose of repairing or improving the same and the grounds thereof; such tax shall be imposed in the manner prescribed by law for imposing general taxes in such town or city as are now authorized to be imposed. (Thus amended by L. 1888, chap. 299.)

【Re-enacted in section 122 of revision, without change in substance.】

(Laws 1866, ch. 273; R. S., 8th ed., 2060.)

§ 7. Any association heretofore incorporated under the original act, or which may be hereafter incorporated under this act, may take by gift or otherwise any lots or lands in any cemetery within the county in which the certificate of its incorporation is recorded; to be used and occupied exclusively for the burial of honorably discharged soldiers who served in the late war in defense of the Union, and for the erection of suitable monuments or memorials therein. (Thus amended by L. 1888, chap. 299.)

¶ Re-enacted in section 121 of revision, without change in substance. ¶

§ 8. Any association may erect, as the monument contemplated by this act, a memorial hall or building, and may take and hold the real estate necessary or proper for that purpose, not to exceed in amount the sum of twenty-five thousand dollars, and the real estate held for the purposes of such memorial hall or building shall not be exempted from taxation. (Thus amended by L. 1888, chap. 299.)

¶ Re-enacted in section 120 of revision, but the limitation as to amount of property is omitted. The provision that the hall shall be exempt from taxation, is omitted. The real property of such a corporation used exclusively for non-business purposes, is exempt under L. 1893, ch. 498. ¶

(L. 1866, ch. 457, amends L. 1865, ch. 368.)

(L. 1867, ch. 799, amends L. 1865, ch. 368.)

(L. 1868, ch. 402; R. S., 8th ed., 1940.)

Section 1. The trustees of any rural cemetery association incorporated under the laws of this state are hereby authorized to levy a tax upon the lot owners in said cemetery in proportion to the value of said lots respectively, when sold, for the purpose of improving the grounds of said cemetery, and repairing and rebuilding the fences around the same, for the purpose of constructing a receiving vault for the common use and benefit of said lot owners, whenever the funds applicable to such purposes shall be insufficient to make the necessary repairs, improvements or construction. (Thus amended by L. 1888, chap. 415, superseding L. 1877, chap. 426.)

§ 2. Such tax shall not be levied except upon the written consent of two-thirds of the lot owners in the cemeteries to which the proposed tax is to be applied, or upon the vote of a majority of all the lot owners in favor of a tax for the purposes herein specified, at an annual or at a special meeting called by the trus-

(Laws 1868, ch. 402; R. S., 8th ed., 1941.)

tees for the purpose of taking such vote, upon the same notice required by law for annual meetings; except that at an annual meeting, upon a vote of a majority of lot owners, present and voting, the trustees are authorized to levy a tax upon each of the lot owners, not exceeding one dollar for each lot owned by the several lot owners in such cemetery. The proceeds of such tax to be applied to the purposes herein specified, and to no other purpose whatever. (Thus amended by L. 1879, chap. 411.)

§ 3. The tax hereby authorized shall be such sum per lot as the trustees shall determine, but shall not exceed the sum of five dollars a lot in any one year on ordinary priced full-sized lots, and proportionally more on more valuable ones; and the tax so levied shall be collected by the school district collector of the school district in which the cemetery is situated, and paid over to the treasurer of said cemetery. In case the said school collectors shall neglect or refuse to collect such tax, a majority of the trustees of such cemetery may appoint some suitable and proper person a resident of said school district, who shall give his bond as is now required by law for a collector of school taxes, and whose term of office shall be for one year to collect such tax, or any uncollected portion thereof, and may by warrant under the hands of the secretary and president of such cemetery association authorize such person, duly appointed to collect the same, in the same manner and with the same powers as are given to school collectors in the collection of school taxes. Such appointed collector shall receive as his compensation the same fees as are now by law allowed to school collectors in the collection of school taxes and shall be subject to the same liability in case of neglect or misconduct. (Thus amended by L. 1888, chap. 415, superseding L. 1881, chap. 412.)

§ 4. The provisions of this act shall not apply to cities, nor to any joint-stock cemetery association or corporation.

[This chapter is re-enacted in § 52 of revision with the following changes: The directors are authorized to levy a tax, annually, not exceeding one dollar on each lot, and the vote of a majority of the lot owners is not required. The treasurer of the corporation instead of the collector of school taxes is authorized to collect taxes levied on the lot owners. No fee is given treasurer for collection of tax.]

(L. 1869, ch. 629; R. S., 8th ed., 2024.)

Section 1. It shall be lawful for the supreme court of this state, upon the application of any society, association or corporation, now incorporated or hereafter incorporated under and by virtue

(Laws 1869, ch. 629; R. S., 8th ed., 2024.)

of the act entitled "An act for the incorporation of societies or clubs for certain social and recreative purposes," passed April eleventh, eighteen hundred and sixty-five, and the acts amendatory thereof, or under and by virtue of chapter two hundred and sixty-seven of the laws of eighteen hundred and seventy-five, entitled "An act for the incorporation of societies or clubs for certain lawful purposes," and of the several acts extending and amending said act, in case it shall deem it proper to make an order for the mortgaging of any real or personal estate belonging to any such corporation, and to direct the application of the moneys arising therefrom by the said corporation; and upon like application may confirm any bond or mortgage heretofore given by any such corporation, and thereupon such bond and mortgage shall be a legal obligation and a valid lien upon the premises or property covered thereby from the date of record thereof. (Thus amended by L. 1884, chap. 68.)

[Section 13 of revision, authorizing the mortgaging of the real property of a membership corporation on the concurring vote of two-thirds of the directors and leave of the court. The same section also authorizes the court to confirm a mortgage originally given without leave of the court.]

(L. 1869, ch. 708, amends L. 1847, ch. 133.)

(L. 1870, ch. 527; R. S., 8th ed., 1941.)

Section 1. It shall be lawful for any cemetery association heretofore or hereafter formed under and in pursuance of the act, entitled "An act authorizing the incorporation of rural cemetery associations," passed April twenty-seventh, eighteen hundred and forty-seven, and the acts amending the same, to accept of a conveyance to such association of any grounds owned or held by any religious society or by trustees, for burial purposes, whenever such society shall authorize the proper officer or officers to convey the same, and in cases where such ground is held by trustees, whenever all the trustees living or residing in this state shall unite in such conveyance; and such conveyance, when fully executed and delivered, shall be deemed and held valid to convey all the interest of such society, and of the said trustees, in such grounds to the association therein named.

§ 2. The association named in any conveyance so as aforesaid authorized shall take, hold and control the grounds so conveyed, subject, however, to any and all burdens, trusts and conditions incumbent upon its grantors, and shall perform all such duties, trusts and conditions.

(Laws 1870, ch. 527; R. S., 8th ed., 1941.)

§ 3. Lots which shall have been sold or granted in such burial grounds, prior to such conveyance, shall not be taken from the grantees thereof, nor their interest therein divested by such conveyance, nor shall any grave be disturbed or monument or remains removed without the consent of the lot owner or of the heirs of the persons whose remains are intended to be removed.

【Sections 1-3 are re-enacted without change of substance in section 45 of revision.】

§ 4. The grounds authorized to be conveyed by this act shall be surveyed and mapped by the association receiving them, and the portion or portions thereof unoccupied or undisposed of may be subdivided into lots and plots and sold or granted by the trustees of such association, in the same manner as the other grounds and lots of such association. And the moneys received on the sale of such lots shall be expended in payment of expenses, and improving and embellishing the grounds of the association, including the grounds conveyed under this act, in the discretion of the trustees thereof.

【Section 4 is not re-enacted in form, but section 46 of revision serves as a substitute for it.】

(L. 1871, ch. 68, amends L. 1854, ch. 112.)

(L. 1871, ch. 378; R. S., 8th ed., 1942.)

Section 1. Whenever any person or persons owning or having in possession a burial lot in any incorporated cemetery shall have vacated the same by a removal of all the dead buried on said lot, and shall have left said lot in a broken and uncultivated condition for the period of one month or more from the date of such removal, it shall then be lawful for the trustees of such incorporated cemetery to enter on said vacated lot for the purpose of improving and beautifying the same, and grade, cut, fill or otherwise change the surface of the same, as shall, in their judgment, be for the improvement of said lot and the general improvement of such cemetery grounds, not reducing, however, the area of said lot. The cost and expense thereof shall be chargeable to said lot, in a sum not exceeding ten dollars, and not against the late owners or persons having had in possession said lot.

§ 2. If the person or persons owning said vacant lot shall not, within six months after such expense shall have been incurred, as provided by the first section of this act, repay to said trustees the sum so expended and authorized, it shall then be lawful for such trustees to sell said lot to pay the cost of such improvement, at public vendue on said cemetery grounds, previous notice of

(Laws 1871, ch. 378; R. S., 8th ed., 1942.)

such sale having been posted at the main entrance of said cemetery at least ten days prior to the day of such sale, and shall pay any surplus arising from such sale, on demand, to the person or persons, or either of them, last in occupation of said lot.

【This chapter is re-enacted without change of substance in § 53 of revision.】

(L. 1871, ch. 705, amends L. 1865, ch. 368.)

(L. 1871, ch. 875; R. S., 8th ed., 2047.)

Section 1. The workingmen of the state of New York may incorporate themselves into unions and societies under and by virtue of the provisions of the act of the legislature of this state, passed April twelfth, eighteen hundred and forty-eight, entitled "An act for the incorporation of benevolent, charitable, scientific and missionary societies," and the several acts amendatory thereof; and the provisions and restrictions of the said acts shall apply to the formation and incorporation of said unions and societies in all respects.

【Such corporations may hereafter be formed under §§ 30-31 of revision.】

(L. 1872, ch. 104; R. S., 8th ed., 1926.)

Section 1. No trustee or director of any charitable or benevolent institution, organized either under the laws of this state or by virtue of a special charter shall receive, directly or indirectly, any salary or emolument from said institution, nor shall any salary or compensation whatever be voted or allowed by the trustees or directors of any institutions organized for charitable or benevolent purposes, to any trustee or director of said institution for services, either as trustee or director, or in any other capacity.

【By section 12 of revision the officers of a membership corporation hereafter incorporated are prohibited from receiving compensation, unless authorized by the by-laws. After January 1, 1895, the section is made to apply to corporations heretofore incorporated.】

(L. 1872, ch. 116, amends L. 1855, ch. 425.)

(L. 1872, ch. 209, amends L. 1848, ch. 319.)

(L. 1872, ch. 649, amends L. 1848, ch. 319.)

(L. 1873, ch. 361, amends L. 1847, ch. 133.)

(L. 1873, ch. 397; R. S., 8th ed., 2055.)

Section 1. Any ten or more persons, residents of this state, who shall desire to associate themselves together in a corporate capacity as a fire, hose, protective or hook and ladder company, may

(Laws 1873, ch. 397; R. S., 8th ed., 2055.)

make, sign and acknowledge before any officer authorized to take the acknowledgment of deeds in this state, and file in the office of the secretary of state and also in the office of the clerk of the county in which the office of the proposed company shall be situated, a certificate in writing in which shall be stated the name or title by which said company shall be known in law, the particular business and object of said incorporation, the name of the incorporated city or village, or the town in which said company proposes to act, the number of trustees, directors, or managers to manage the same, and the names of the trustees, directors or managers for the first year of its existence, and the number of years said company shall exist, not to exceed fifty years; but such certificate shall not be filed unless there shall be annexed thereto a certified copy of a resolution of the board of trustees of the village, or the approval of the mayor of the city in which said company is situate, or if said company be not located in an incorporated city or village, then a resolution of the board of town auditors of the town, consenting to such incorporation, provided that such corporations shall only engage in or conduct such business as properly belongs to fire, hose, protective or hook and ladder companies, and only in the incorporated city or village, or the town named in the aforesaid certificate; and provided further, that in taking part in the prevention and extinguishment of fires in cities and villages, said corporations shall be under the control and subject to the orders of the city or village authorities or officers, who by law have or may have control over the prevention or extinguishment of fires in incorporated cities or villages in which said corporation shall conduct their business. (Thus am. by L. 1890, ch. 27.)

【Sections 65 and 66 of revision without change in substance.】

§ 2. Upon filing a certificate as aforesaid, together with such resolution of approval, the persons who shall have signed and acknowledged such certificate, and their associates and successors, shall thereupon, by virtue of this act, be a body politic and corporate by the name stated in such certificate, and by that name they and their successors shall and may have succession, and shall be capable in law of suing and being sued; and they and their successors by their corporate name shall, in law, be capable of taking, receiving, holding and purchasing real estate for the purposes of their incorporation, and for no other purpose, to an amount not exceeding the sum of fifty thousand dollars in value, and personal estate for like purposes to an amount not exceeding the sum of fifty thousand dollars in value; to make

(Laws 1873, ch. 397; R. S., 8th ed., 2056.)

by-laws for the management of its affairs not inconsistent with the constitution and laws of this state or of the United States, to elect and appoint the officers and agents of such company for the management of its business, and to allow them a suitable compensation, and to prescribe the qualifications of membership of said company.

【The provision that the corporation is formed on compliance with conditions is in § 65 of revision. The general powers of the corporation are prescribed by Gen. C. L., § 11. The power to hold property to the amount of \$3,000,000 is in Gen. C. L., § 12.】

§ 3. The company so incorporated may annually elect from its members its trustees, directors or managers, at such time and place, and in such manner as may be specified in its by-laws, who shall have the control and management of the affairs and funds of said company, and a majority of whom shall be a quorum for the transaction of business. Whenever any vacancy shall happen among said trustees, directors or managers, by death, resignation or neglect to serve, such vacancy shall be filled in the manner provided in the by-laws of said company.

【Gen. Corp. L., § 29, fixes the quorum of directors at a majority. The remainder of this section is covered by § 8 of revision.】

[Section 4. Failure to hold election. Repealed by Gen. C. L. of 1890.]

[Section 5. May take property by devise. Not repealed.]

§ 6. The trustees of any company or corporation organized under the provisions of this act shall be jointly and severally liable for all debts due from said company or corporation, contracted while they are trustees; provided said debts are payable within one year from the time they shall have been contracted; and provided further, that a suit for the collection of the same shall be brought within one year after the debt shall become due and payable.

【Section 11 of revision.】

§ 7. It shall be the duty of the trustees, directors or managers of all corporations formed under this act, or a majority of said trustees, directors or managers on or before the fifteenth day of January in each year, to make and file in the county clerk's office where the certificate of incorporation is filed, a certificate under their hands, stating the names of the trustees and officers of such corporation, with an inventory of the property and effects and liabilities thereof, with an affidavit of said trustees, directors or

(Laws 1873, ch. 397; R. S., 8th ed., 2056.)

managers of the truth of such certificate and inventory; and also a like affidavit that such corporation has not been engaged, directly or indirectly, in other business than such as is set forth in the certificate of incorporation.

**[Omitted.]**

[Sections 8 and 9 were repealed by Gen. C. L. of 1890.]

[Section 10 prescribes when act took effect.]

[Section 11. Exemption from taxation. Not repealed.]

(L. 1873, ch. 678, amends L. 1865, ch. 368.)

(L. 1874, ch. 35, amends L. 1865, ch. 368.)

(L. 1874, chap. 245; R. S., 8th ed., 1943.)

[Sections 1-3 are amendatory of L. 1847, ch. 133.]

§ 4. Every association incorporated under the act hereby amended may from time to time, by its trustees, make such rules and regulations as it shall deem proper for the care, management and protection of the cemetery lands and property; for the use, care and protection of all lots and plats and parts of lots therein; the conduct of persons while within the cemetery grounds; to exclude improper persons therefrom and improper assemblages therein; to regulate the dividing marks between the various lots and plats and parts of lots and plats, and their size, shape and location; to regulate the size of erections, and to forbid the erection of structures upon such lots or plats and parts of lots or plats; to prevent the burial within the cemetery of persons executed for crime; to prevent the burial on any lot or plat or part of any lot or plat of any person not entitled to such burial by section eleven of said act of April twenty-seven, eighteen hundred and forty-seven, hereby amended; to regulate and prevent disinterments; to prevent improper monuments, effigies, structures and inscriptions within the cemetery grounds, and to remove the same; and to regulate the introduction and growth of plants, trees and shrubs within the cemetery grounds. Such rules and regulations, when adopted, shall be binding upon all lot owners and persons visiting said cemetery grounds, and shall apply to all lots and parts of lots sold or hereafter to be sold. Such rules and regulations, when adopted, shall be plainly printed and publicly posted in the principal office of the association, and in such places upon the cemetery grounds as the trustees of the association shall by resolution prescribe.

**[This section is re-enacted without change of substance in section 10 of revision.]**

(Laws 1875, ch. 130; R. S., 8th ed., 1931.)

Section 1. Any five or more persons of full age, a majority of whom shall be citizens of, and residents within, this state, who shall desire to associate themselves together, for the purpose of preventing cruelty to children, may make, sign and acknowledge before any person authorized to take the acknowledgment of deeds in this state, and file in the office of the secretary of state and also in the office of the clerk of the county in which the business of the society is to be conducted, a certificate in writing, in which shall be stated the name or title by which such society shall be known in law, the particular business and objects of such society, the number of trustees, directors or managers to manage the same, and the names of the trustees, directors or managers of the society, for the first year of its existence; but such certificate shall not be filed, unless the written consent and approbation of one of the justices of the supreme court of the district in which the place of business or principal office of such society shall be located, be indorsed on such certificate.

[Re-enacted in section 70 of revision, with additional requirements as to approval of certificate by president of New York society for the prevention of cruelty to children.]

§ 2. Upon filing the certificate as aforesaid, the persons who shall have signed and acknowledged such certificate, and their associates and successors shall thereupon, by virtue of this act, be a body politic and corporate, by the name stated in such certificate, and as such shall have power,

1. To have perpetual succession by its corporate name.
2. To sue and be sued, complain and defend, in any court of law or equity.
3. To make and use a common seal, which may be affixed by making an impression directly on the paper, and alter the same at pleasure.
4. To appoint such officers, managers and agents as the business of the corporation may require.
5. To make by-laws not inconsistent with the laws of this state or of the United States, for the management of its property and the regulation of its affairs.
6. To contract and be contracted with.
7. To take and hold by gift, purchase, grant, devise or bequest any property, real or personal, and the same to dispose of at pleasure. But such corporation shall not, in its corporate capacity, hold real estate, the yearly income derived from which shall exceed the sum of fifty thousand dollars.

(Laws 1875, ch. 130; R. S., 8th ed., 1932.)

8. To exercise any corporate powers necessary to the exercise of the powers above enumerated and given.

【The provision that the corporation be formed on filing certificate is in section 70 of revision. The general powers of the corporation, including the power to hold property, are in sections 11 and 12, Gen. Corp. L.】

§ 3. Any society so incorporated may prefer a complaint before any court, tribunal or magistrate having jurisdiction, for the violation of any law relating to or affecting children, and may aid in presenting the law and facts before such court, tribunal or magistrate in any proceeding taken. Any such society may be appointed guardian of the person of any minor child during its minority by a court of record of this state or by a judge or justice thereof, and may receive and retain any child at its own expense upon commitment by a court or magistrate. (Thus amended by L. 1886, chap. 30.)

【Re-enacted in section 72 of revision, without change in substance.】

§ 4. All magistrates, constables, sheriffs and officers of police shall, as occasion may require, aid the society so incorporated, its officers, members and agents in the enforcement of all laws which now are or may hereafter be enacted, relating to or affecting children.

【Re-enacted in section 12 of revision, without change in substance.】

§ 5. The provisions of this act shall not extend or apply to any association or individuals who shall, in the certificate filed as hereinabove provided, use or specify a name or style the same or substantially the same as that of any previously existing incorporated society in this state.

【Covered by section 6 of Gen. Corp. L.】

(Laws 1875, ch. 267; R. S., 8th ed., 2024.)

Section 1. Any five or more persons of full age, citizens of the United States, and a majority of whom are also citizens of this state, who desire to form themselves into a society or club for social, mutual benefit, benevolent, temperance, political, economic, patriotic, gymnastic, athletic, military drill, musical, dramatic, historical, literary, library, artistic, yachting, hunting, fishing, bathing or lawful sporting purposes, may sign and acknowledge, before any officer authorized to take the acknowledgment of deeds in this state, and to file in the office of the secretary

(L. 1875, ch. 267; R. S., 8th ed., 2025.)

of state, and also in the office of the clerk of the county in which the office of such society or club shall be situated, a certificate, in writing, in which shall be stated the name or title by which such society shall be known in law; the particular business and object of such society or club; the number of trustees, directors or managers to manage the same, and the names of the trustees, directors or managers for the first year of its existence; but such certificate shall not be filed unless by the written consent and approbation of one of the justices of the supreme court of the district in which the principal office of such society or club shall be located, be indorsed on such certificate; but nothing in this act contained shall authorize the incorporation of any society or club for any purpose repugnant to any statute of this state, or prohibited thereby. (Thus amended by L. 1876, chap. 53.)

**[Re-enacted in sections 30 and 31 of revision, without change of substance.]**

§ 2. Upon filing a certificate as aforesaid, the persons who shall have signed and acknowledged such certificates, and their associates and successors, shall thereupon, by virtue of this act, be a body politic and corporate by the name stated in such certificate, and by that name they and their successors shall and may have succession, and shall be persons in law capable of suing and being sued; and they and their successors may have and use a common seal, and may alter and change the same at pleasure; and they and their successors by their corporate name shall, in law, be capable of taking, receiving, purchasing, leasing and holding real estate for the purposes of their incorporation, and for no other purpose, to an amount not exceeding the sum of five hundred thousand dollars in value, exclusive of the buildings and improvements thereon, and personal property for like purposes to an amount not exceeding the sum of one hundred and fifty thousand dollars in value, exclusive of the buildings and improvements on its said real estate and the furnishing of its club-house, but the clear annual income of such real and personal estate shall not exceed the sum of fifty thousand dollars; to make and adopt a constitution, by-laws, rules and regulations for the government of said corporation, and for the admission, voluntary withdrawal, censure, suspension and expulsion of its members, for the establishing and collection of the fees and dues of its members, the number and election of its officers, and to define their duties and compensation, and for the safe-keeping of its property, and from time to time to alter,

(L. 1875, ch. 267; R. S., 8th ed., 2025.)

modify or change such constitution, by-laws, rules and regulations; provided, however, that no constitution, by-laws, rules or regulations shall be made or adopted by said corporation which shall be inconsistent with the constitution and laws of the United States or this state. The by-laws of any society or club for yachting purposes may provide that the qualified voters of such society or club be limited to the owners of yachts in such manner that the owners of each yacht shall together cast but one vote in the meetings of such society or club, and in the election of its officers, trustees, directors or managers.

【The provision that on filing certificate the corporation is formed is in section 31 of revision. The general powers of the corporation are in § 11 of Gen. Corp. L. The power to hold property to the amount of \$3,000,000 is in § 12 of Gen. Corp. L. The provision that corporation may make by-laws, etc., is in section 8 of revision. The provision that yacht owners may vote, if the by-laws so provide, is in section 8 of revision.】

§ 3. The membership of any person in said society or corporation shall be determined by his death or by his voluntary withdrawal therefrom, or by expulsion therefrom, and the manner of such withdrawal or expulsion of members shall be determined and provided by the by-laws of said corporation, and upon such death, withdrawal or expulsion, all and every right, title and interest of the person whose membership is so determined, in or to or by reason of the said corporation, by reason of his former membership therein, or in or to its property or effects, shall, unless such by-laws shall otherwise provide, or except by the unanimous consent of the board of trustees of such corporation, and as otherwise hereinafter provided, cease and be forever at an end. Provided that any such society or corporation may, under such regulations and restrictions as shall be prescribed by its board of trustees, convey to any member of such society or corporation, by deed, such portion of its real estate as shall have been used, or shall thereafter be used by such member for the erection thereon of a cottage or other dwelling-house, with suitable outbuildings, and such portion of real estate, together with the buildings thereon, shall belong to such member according to the terms of such conveyance, and in case of his death, shall pass as part of his estate to his heirs or devisees, but the land whereon such buildings shall be erected shall be inalienable by him or them, except to such society or corporation, or to a member thereof; and provided also that any member of such society or corporation may, in his life time, on his voluntary withdrawal

(Laws 1875, ch. 267; R. S., 8th ed., 2026.)

from such society or corporation, and after his death, his personal representatives may sell, transfer and assign his share and interest in the property of such society or corporation, to it, or to a member thereof, for such sum as may be mutually agreed upon; and such society or corporation shall have power, under the direction and regulation of its board of trustees, to purchase and pay for the same. (As amended by L. 1890, ch. 68.)

【Section 8 of revision authorizes the adoption of by-laws regulating the expulsion of membership, the termination of membership, etc. Section 9 of revision provides that on the termination of membership, all the rights of the member in or to the corporation or its property shall cease, unless otherwise provided by law or the by-laws. The provision of § 3, relating to transfers of lots, etc., to members, is re-enacted without change of substance, in § 13 of revision.】

§ 4. The society so incorporated may elect from its members, its trustees, directors or managers, and the trustees, directors or managers so elected may divide the whole number of trustees, directors or managers into classes, so that not less than one-fourth of their number shall be elected annually, after the first organization of any board of such trustees, directors or managers. Such election may be held at such time and place and in such manner as may be specified in the by-laws, except that in all societies incorporated under this act where the members own or are interested in individual lots of land conveyed by the society to such member or to some one of his family, in which case each member in good standing shall be entitled to vote in person or by written proxy, at such election or at any meeting of the society; and such board shall have the control and management of the affairs and funds of said society, a majority of whom shall be a quorum for the transaction of business; but any such society may by the consent in writing of a majority of its members fix the number of trustees, directors or managers, who shall constitute a quorum of its board of directors, trustees or managers for the transaction of business, which consent duly acknowledged or proved by subscribing witness shall be filed in the office of the clerk of the county where the original certificate of incorporation was filed, and a transcript thereof duly certified under the official seal of said clerk shall be filed in the office of the secretary of state; and whenever any vacancy shall happen among such trustees, directors or managers by death, resignation or neglect to serve, such vacancy shall be filled in such manner as shall be provided by the by-laws of such society. The number of trustees,

(Laws 1875, ch. 267; R. S., 8th ed., 2026.)

directors or managers in any corporation organized under this act may at any time be increased to not more than twenty or diminished to not less than five, as follows: The existing trustees, directors or managers of any such corporation, or a majority of them, shall make and sign a certificate declaring how many trustees, directors or managers the corporation shall thereafter have, and stating the names of such trustees, directors or managers for the present time, which certificate shall be acknowledged by the trustees, directors or managers signing the same, or proved by a subscribing witness, and shall be filed in the office of the clerk of the county where the original certificate of incorporation was filed, and a duplicate or transcript thereof, duly certified under the official seal of such clerk, shall be filed in the office of the secretary of state; and from and after the filing of such certificate and duplicate or transcript, the trustees, directors or managers of such corporation shall be deemed increased or diminished to the number therein stated, and the persons so named therein shall be trustees, directors or managers until a new election thereof shall be had according to this act and the constitution, by-laws or regulations of such corporation. But no act of the trustees, directors or managers, changing the number of such trustees, directors or managers, shall be valid until ratified by a majority of the members of such corporation at a meeting called for that purpose. (Thus amended by L. 1893, ch. 465.)

【Section 8 of revision provides that the by-laws may classify the directors in not more than five classes, the term of office to be as many years as there are classes. Section 8 provides that the by-laws may regulate the qualifications of voters at corporate meetings, and section 13 of revision provides that the grantees of lots may vote if the by-laws so provide. Section 29 of Gen. Corp. Law fixes a majority as a quorum of directors. Section 3 of revision authorizes the adoption of by-laws regulating vacancies in office of corporate officers. By section 14 of revision the number of directors may be changed to not less than three nor more than thirty by action of a corporate meeting.】

[Section 5 repealed by Gen. C. L., 1890.]

§ 6. The provisions of this act shall not extend or apply to any association or individuals, who shall in the certificate filed with the secretary of state, or with the county clerk, use or specify a name or style the same as that of any previously existing incorporated society in the state.

【Covered by Gen. C. L., § 6.】

(Laws 1875, ch. 267; R. S., 8th ed., 2027.)

[Section 7. Devises and bequests. Not repealed.]

§ 8. The trustees, directors or managers of any society or corporation organized under the provisions of this act, shall be jointly or severally liable for all debts due from said society or corporation, contracted while they are trustees; provided, said debts are payable one year from the time they shall have been contracted; and, provided, a suit for the collection of the same shall be brought within one year after the debt shall become due and payable.

¶ Re-enacted in section 11 of revision, without change in substance.]

§ 9. All institutions formed under this act, together with their books and vouchers, shall be subject to the visitation and inspection of the justices of the supreme court; or by any person or persons who shall be appointed by the supreme court for that purpose; and it shall be the duty of the trustees, or a majority of them, in the month of December in each year, to make and file in the county clerk's office, where the original certificate is filed, a certificate under their hands stating the names of the trustees and officers of such association or corporation, with an inventory of the property, effects and liabilities thereof, with an affidavit of the truth of such certificate and inventory, and also an affidavit that such association or corporation has not been engaged, directly or indirectly, in any other business than such as is set forth in the original certificate on file.

¶ Visitation by supreme court is retained in section 16 of revision. The filing of annual inventory is omitted but by section 16 may be required by order of court upon petition, stating mismanagement by directors, etc. Section 11 of revision requires an annual report to be made by the directors at the annual meeting.]

(L. 1875, ch. 343; R. S., 8th ed., 2040.)

Section 1. Any number of persons not less than five, citizens of the United States, a majority of whom shall also be citizens of this state, who shall desire to associate themselves together for the purpose of founding, continuing and perpetuating a library, may make, sign and acknowledge before any officer authorized to take acknowledgment of deeds in this state, and file in the office of the secretary of state, and also in the office of the clerk of the county in which the office of such society shall be situated, a certificate in writing, in which shall be stated the name or title by which such society shall be known in law, the business and object of such society, the number of trustees, directors or managers to

(Laws 1875, ch. 343; R. S., 8th ed., 2041.)

manage the same, and the names of the trustees, directors or managers for the first year of its existence, and the city or town of the county in which such library shall be located; but such certificate shall not be filed unless by the written consent and approbation of one of the justices of the supreme court of the district in which said library shall be located, to be indorsed on such certificate.

【Library corporations can not hereafter incorporate under this chapter, being excluded by the language of section 30. Hereafter they can only incorporate pursuant to the University Law (L. 1892, ch. 378), with the consent of the regents. Library corporations formed under chapter 343 of the L. of 1875 will be subject to this chapter, being within the terms of the definition of a membership corporation in section 2 of revision.】

§ 2. Upon filing a certificate, as aforesaid, the persons who shall have signed and acknowledged such certificate, and their associates and successors, shall thereupon, by virtue of this act, be a body politic and corporate, by the name stated in such certificate, and by that name they and their successors shall and may have succession, and shall be persons in law capable of suing and being sued; and they and their successors, by their corporate name, shall, in law, be capable of taking, receiving, purchasing and holding real estate by gift, grant or otherwise, for the purposes of their incorporation, and for no other purpose, to an amount not exceeding the sum of fifty thousand dollars in value, and personal estate for like purposes to an amount not exceeding the sum of seventy-five thousand dollars in value; but the clear annual income of such real and personal estate shall not exceed the sum of ten thousand dollars; to make by-laws for the management of its affairs not inconsistent with the constitution and laws of this state or of the United States; to elect and appoint the officers and agents of such society for the management of its business, and to allow them a suitable compensation.

【The general powers of the corporation are in Gen. Corp. L., § 11. The power to hold a certain amount of property is superseded by Gen. Corp. L., § 12, which authorizes \$3,000,000. The power to make by-laws is in Gen. C. L., § 11 and § 8 of revision.】

§ 3. The society so incorporated may prescribe by its by-laws what persons may thereafter become its members and have the right to vote at its meetings, and may annually elect from its members, its trustees, directors, managers, at such time and place and in such manner as may be specified by it in its by-laws, who shall have the control and management of the affairs and funds of

(Laws 1875, ch. 343; R. S., 8th ed., 2041.)

said society, a majority of whom shall be a quorum for the transaction of business; and whenever any vacancy shall happen among such trustees, directors or managers, by death, resignation or neglect to serve, such vacancy shall be filled in such manner as shall be provided by the by-laws of such society.

【The power to make by-laws is in section 8 of revision. The provision that a majority of the directors shall be a quorum is in Gen. Corp. L., § 29. By-laws adopted pursuant to section 8 of revision may regulate the filling of vacancies.】

§ 4. The provisions of this act shall not extend or apply to any association or individuals who shall in the certificates filed with the secretary of state, or with the county clerk, use or specify a name or style the same as that of any previously incorporated society in this state.

【Covered by Gen. Corp. L., § 6.】

[§ 5. Devises. Not repealed.]

§ 6. The trustees of any company or corporation organized under the provisions of this act, shall be jointly and severally liable for all debts due from said company or corporation contracted while they are trustees, provided said debts are payable within one year from the time they shall have been contracted, and provided a suit for the collection of the same shall be brought within one year after the debt shall become due and payable.

【Re-enacted in § 11 of revision.】

§ 7. All institutions formed under this act, together with their books and vouchers, shall be subject to the visitation and inspection of the justices of the supreme court, or by any person or persons who shall be appointed by the supreme court for that purpose.

【Re-enacted in § 11 of revision,  
without change in substance.】

(L. 1875, ch. 419 amends L. 1853, ch. 395.)

(L. 1875, ch. 452 amends L. 1848, ch. 319.)

(L. 1875, ch. 512 amends L. 1855, ch. 425.)

(L. 1876, ch. 53. amends L. 1875, ch. 267.)

(L. 1876, ch. 190 amends L. 1848, ch. 319.)

(L. 1876, ch. 346 amends L. 1855, ch. 425.)

(L. 1877, ch. 228; R. S., 8th ed., 2057.)

Section 1. At any time hereafter any twelve or more persons who may desire to form a corporation commonly called board of trade or exchange, or a builders' exchange or association, for the

(Laws 1877, ch. 228; R. S., 8th ed., 2057.)

purpose of fostering trade and commerce, or the interests of those whose business is the erection of buildings or the furnishing of materials used in the erection of buildings, to reform abuses in trade or business, to secure freedom from unjust or unlawful exactions, to diffuse accurate and reliable information among its members as to the standing of merchants and builders, and other matters to produce uniformity and certainty in the customs and usages of trade and commerce, and of those engaged in the business of erecting buildings or the furnishing of materials, to settle differences between its members and to promote a more enlarged and friendly intercourse between merchants and business men, may make, sign and acknowledge before some officer competent to take the acknowledgment of deeds, and file in the clerk's office of the county where the principal office of such corporation is to be located, and a duplicate thereof in the office of the secretary of state, a certificate in writing in which shall be stated the name of the corporation, and the object for which it shall be formed, the amount of its capital stock, if any, the number of shares of which said stock shall consist, the time of its existence, not to exceed fifty years; the number of trustees and their names, who shall manage the affairs of the corporation for the first year, and the name of the city or town and county in which the principal office of such corporation is to be located. (Thus amended by L. 1886, chap. 333.)

[Section 1 is re-enacted in section 130 of revision with the following changes: Five or more persons may incorporate instead of twelve or more, and the provision is broader in that persons having a "common trade, business, financial or professional interest" may incorporate.

The manner of acknowledging the certificate is regulated by Stat. Const. L., § 15, and the place where it is to be filed is prescribed by § 5 of the Gen. Corp. L.

Board of trade corporations can not incorporate under this chapter for business purposes, with capital stock. See note to section 130 of revision.]

§ 2. When the certificate shall have been filed as aforesaid, the persons who shall have signed and acknowledged the same, and their successors and associates, shall be a body politic and corporate in fact and in name stated in such certificate; and by such name shall have power:

1. To sue and be sued; complain and defend in any court of law or equity.

2. To make and use a common seal, and alter the same at pleasure.

(Laws 1877, ch. 228; R. S., 8th ed., 2057.)

3. To appoint such subordinate officers and agents as the business of the corporation may require, and to allow them a suitable compensation.

4. To make by-laws not inconsistent with any existing law, for the management of its property, the regulation of its affairs, and for the transfer of its stock.

[Section 2 is not re-enacted, but its provisions are covered by § 11 of the Gen. Corp. L.]

[Sections 3-6 were repealed by general and stock corporation laws of 1890.]

§ 7. Such corporations shall have power to admit and expel members in such manner as may be provided in the by-laws of such corporation.

[Section 7 is covered by section 8 of revision, authorizing the adoption of by-laws.]

(L. 1877, ch. 380 amends L. 1865, ch. 368.)

(L. 1877, ch. 426 amends L. 1868, ch. 402.)

(L. 1877, ch. 469 amends L. 1854, ch. 112.)

(L. 1879, ch. 107; R. S., 8th ed., 1943.)

Section 1. Any rural cemetery association duly incorporated under the act entitled "An act authorizing the incorporation of rural cemetery associations," passed April twenty-seventh, eighteen hundred and forty-seven, and the acts amending the same, which shall have issued, or which may hereafter issue certificates of indebtedness, pursuant to the provisions of chapter one hundred and sixty-three of the laws of eighteen hundred and sixty, entitled "An act to amend the act entitled An act authorizing the incorporation of rural cemetery associations, passed April twenty-seventh, eighteen hundred and forty-seven," may change such certificates of indebtedness, or any part thereof, into certificates of stock, by and with the consent of two-thirds of the trustees of the said rural cemetery association issuing the same, and the consent of the person or persons holding the said certificates of indebtedness, which change shall be effected in the manner following, that is to say: The board of trustees of any such corporation desiring to make the change authorized by this act, by a vote of not less than two-thirds of all the trustees elected, shall adopt a resolution expressing the desire and willingness of the said corporation to receive and accept a surrender of the outstanding certificates of indebtedness issued by the said corporation, and to issue certificates of stock therefor in shares of the par value of twenty-five dollars each, or some multiple thereof, which reso-

(Laws 1879, ch. 107; R. S., 8th ed., 1944.)

lution shall be entered at length in the book of minutes kept by the said board of trustees, whereupon the person or persons holding the certificates of indebtedness referred to in the said resolution may surrender and yield up the same to the said corporation to be cancelled and destroyed, and thereupon the said trustees shall have power to issue and deliver to such person or persons certificates of stock in shares of twenty-five dollars each, or some multiple thereof, to an amount corresponding with the amount of the certificate of indebtedness so surrendered. And from thenceforth no interest shall accrue or become payable to the holders of such stock, but in lieu of interest the holders of the said stock shall be entitled to claim and receive semi-annually a dividend for their proportional part of the surplus or net receipts of the said cemetery, over and above current expenses, if any surplus shall remain after the payment of such current expenses.

§ 2. The certificates of stock hereby authorized to be issued shall be sealed with the corporate seal of the association, and signed by the president or vice-president and treasurer thereof. Such stock shall be deemed personal property, and shall be transferable only on the books of the said association upon the surrender of the certificate thereof (unless otherwise provided on the face of such certificate), and upon every such surrender a new certificate for the stock surrendered shall be issued to the party to whom the said stock shall have been transferred, and the holders of the said stock shall be entitled, in person or by proxy, to one vote for every share thereof, at the annual election for trustees and at other business meetings of the said corporation.

§ 3. The trustees shall keep a register or record of the stock issued by the said corporation, showing the date of issue, the number of shares, the par value thereof, and the name or names of the person or persons to whom the same shall be issued, and the number of the certificate therefor, and all transfers of such stock shall be noted and entered in the said register or record, and the certificates surrendered shall be deemed cancelled by the issue of a new certificate, and such surrender certificate shall be destroyed.

§ 4. Nothing in this act contained shall be construed to create a lien upon lots or plats belonging to individual proprietors within the cemetery limits, nor any other or greater liability against the association or trustees issuing such stock, than may be necessary to enforce the faithful application of the surplus or net receipts of the said cemetery to and among the holders of the said stock in manner aforesaid; provided, however, that any trustee of such corporation may become the holder or transferee of such stock for his own individual use or benefit.

(L. 1879, ch. 167; R. S., 8th ed., 1944.)

[This chapter is re-enacted, without change of substance, in § 50 of revision, so far as certificates of stock heretofore issued are concerned. There is no authority in the Membership Corporations Law for the issue of such certificates, hereafter.]

(L. 1879, ch. 108 amends L. 1847, ch. 133.)

(L. 1879, ch. 252 amends L. 1848, ch. 319.)

(L. 1879, ch. 411 amends L. 1868, ch. 402.)

(L. 1880, ch. 98 amends L. 1875, ch. 267.)

(L. 1880, ch. 246; R. S., 8th ed., 2027.)

Section 1. Any society, association or incorporation now incorporated, or that hereafter may be incorporated under and by virtue of chapter three hundred and sixty-eight of the laws of eighteen hundred and sixty-five, entitled "An act for the incorporation of societies or clubs for certain social and recreative purposes," and the acts amendatory thereof, may, from time to time, extend its objects and business beyond those set forth in its original certificate, so as to include other objects and business authorized by said acts, on making, signing and acknowledging, under the hands of its trustees, or a majority of them, an additional certificate stating the further objects and business of such society, and filing the same in the office of the secretary of state and also in the office of the clerk of the county in which the office of such society shall be situated; provided that no such society or incorporation shall engage, directly or indirectly, in any objects or business not specified or included in the said acts.

[Section 4 of revision authorizes an extension to objects of a kindred nature, for which the corporation might have been originally created. See note to § 4 of revision.]

(L. 1880, ch. 566; R. S., 8th ed., 1944.)

[Section 1 amends the act of 1847.]

§ 2. Any lot or plat hereafter conveyed by any association incorporated under the act hereby amended, may be conveyed in such form and manner that, from the time of such conveyance, or from the time of any interment in such lot or plat, the same shall be forever thereafter inalienable, and shall, upon the death of the holder or proprietor thereof, descend to all or any one or more of the heirs-at-laws of such holder or proprietor, and to all or any one or more of their heirs-at-law, or to such other person or persons, or such other class or classes of persons as may in the conveyance thereof be designated for that purpose; but any one or more of such heirs-at-law, or of the persons who shall become the joint owners or proprietors of such lot or plat, may release

(Laws 1880, ch. 566; R. S., 8th ed., 1945.)

to any other or others of such heirs-at-laws, or persons, his, her or their interest in the same, on such conditions as shall be specified in such release, a copy of which shall be filed in the office of such association.

【Section 2 is re-enacted in § 49 of revision, which makes the lot inalienable after a burial therein, while under the above section such lot may be made inalienable from the time of the conveyance.】

§ 3. Any lot or plat heretofore conveyed, or which may hereafter be conveyed by said association, may be held in the manner and for the purpose authorized by the last preceding section; provided that the owner or proprietor thereof, who has received a conveyance of the same from such association, shall signify and declare his or her wishes thereto, by an instrument in writing duly acknowledged, or by any last will and testament duly made and executed; and shall file the same, or a copy thereof, in the office of such association.

【Section 3 is not re-enacted.】

§ 4. Any such association may take and hold any lot or plat which may be conveyed or devised to it by the owner or proprietor thereof, receiving title thereto from such association, with authority in the grantor or testator to make the said lot or plat thereafter inalienable, and to restrict interments therein to such person or persons, or such class or classes of persons, as may for that purpose be designated and prescribed in the conveyance or devise under which the said lot or plat shall be so taken and held.

【The provision authorizing the corporation to hold lots reconveyed to it is re-enacted without change of substance in § 49 of revision. The remainder of the section is omitted.】

(L. 1881, ch. 139; R. S., 8th ed., 1948.)

Section 1. Every corporation which shall, under authority of law, hold, occupy and use lands for a cemetery and burial place, may receive by gift or bequest any moneys or personal property for the improvement and maintenance of such cemetery; or for the maintenance, repair, preservation or ornamentation of any private plat, vault, monument, tomb or other structure in such cemetery, according to the terms of such gift or bequest.

【This chapter is re-enacted without change of substance in section 45 of revision.】

(L. 1881, ch. 207 amends L. 1855, ch. 425.)

(L. 1881, ch. 254 amends L. 1848, ch. 319.)

(L. 1881, ch. 388 amends L. 1855, ch. 425.)

(L. 1881, ch. 412 amends L. 1868, ch. 402.)

(Laws 1881, chap. 428; R. S., 8th ed., 1928.)

Section 1. The funds of charitable and benevolent institutions and charitable and benevolent corporations may be invested in any such securities as are now permitted by law to banks for savings; and also in such real estate as such institutions or corporations are permitted to hold under the laws of this state.

§ 2. Such associations and corporations may retain and hold as such investment any specific property, real or personal, donated to them respectively.

§ 3. Nothing contained in this act shall be so construed as to permit any such institution or corporation to take or hold any personal or real estate beyond the amount in value it is now entitled to hold under its charter or the laws of this state.

【This act is repealed, but not re-enacted. There is no doubt that the surplus funds of a membership corporation can be so invested without express authority of law.】

(L. 1881, ch. 497 amends L. 1847, ch. 133.)

(L. 1881, ch. 526 amends L. 1848, ch. 319.)

(L. 1881, ch. 641; R. S., 8th ed., 1928.)

Section 1. All corporations already formed or which hereafter may be formed under and in pursuance of chapter three hundred and nineteen of the laws of eighteen hundred and forty-eight, being "An act for the incorporation of benevolent, charitable, scientific and missionary societies," and the several acts amendatory thereof, and their successors, by their corporate name, shall in law be capable of taking, receiving, purchasing and holding real estate for the purposes of their corporation to an amount not exceeding the sum of two hundred thousand dollars in value, and personal estate for like purposes to an amount not exceeding the sum of two hundred thousand dollars in value, but the clear annual income of such real and personal estate shall not exceed the sum of fifty thousand dollars, subject, however, to the restrictions upon devises and bequests contained in an act, entitled "An act relating to wills," passed April thirteen, eighteen hundred sixty.

【Superseded by Gen. Corp. L., § 12.】

(L. 1883, ch. 446 amends L. 1848, ch. 319.)

(L. 1884, ch. 68 amends L. 1869, ch. 629.)

(L. 1884, ch. 433 amends L. 1860, ch. 163.)

(L. 1884, ch. 436 amends L. 1855, ch. 425.)

(L. 1885, ch. 66 amends L. 1865, ch. 368.)

(L. 1885, ch. 88 amends L. 1848, ch. 319.)

(L. 1885, ch. 474 amends L. 1875, ch. 267.)

(L. 1886, ch. 30 amends L. 1875, ch. 130.)

(L. 1886, ch. 236; R. S., 8th ed., 2027.)

Section 1. Any five or more persons, of full age, citizens of the United States, and a majority of whom are also citizens of this state, who desire to form themselves into a political club, may sign and acknowledge, before any officer authorized to take the acknowledgment of deeds in this state, and file in the office of the secretary of state, and also in the office of the clerk of the county in which the office or house of such club shall be situated, a certificate in writing, in which shall be stated the name or title by which such club shall be known in law; the particular business and object of such club; the number of trustees, directors, managers or executive committee to manage the same, and the names of the trustees, directors, managers or executive committee for the first year of its existence.

【Sections 30-31 of revision, without change in substance.】

§ 2. Upon filing a certificate as aforesaid, the persons who shall have signed and acknowledged such certificate and their associates and successors, shall thereupon, by virtue of this act, be a body politic and corporate by the name stated in such certificate, and by that name they and their successors shall and may have succession, and shall be capable of suing and being sued; and they and their successors may have and use a common seal, and may alter and change the same at pleasure; and they and their successors, by their corporate name, shall, in law, be capable of taking, receiving, purchasing, leasing and holding real estate for the purposes of their incorporation, and for no other purpose, to an amount not exceeding the sum of five hundred thousand dollars in value, exclusive of the building and improvements thereon, and personal estate for like purposes to an amount not exceeding the sum of one hundred and fifty thousand dollars in value, exclusive of the building and improvements on its said real estate, and the furnishing of its club-house, but the clear annual income of such real and personal estate shall not exceed the sum of fifty thousand dollars; to make and adopt a constitution, by-laws, rules and regulations for the government of said corporation, and for the admission, voluntary withdrawal, censure, suspension and expulsion of its members, for the establishing and collection of the fees and dues of its members, the number and election of its officers, and to define their duties and compensation, and for the safe-keeping of its property, and the general conduct of its affairs, and from time to time to alter, modify or change such constitution, by-laws, rules and regulations; provided, however, that no constitution, by-laws, rules or regulations shall be made or

(Laws 1886, ch. 236; R. S., 8th ed., 2028.)

adopted by said corporation which shall be inconsistent with the constitution and laws of the United States or this state.

¶ Provision that on filing certificate, corporation is formed, is in section 31 of revision. Provision as to general powers, is superseded by Gen. Corp. L., § 11. Provision as to holding property is superseded by Gen. Corp. L., § 12, which allows \$3,000,000. The provisions in regard to making by-laws are in section 8 of revision. ¶

§ 3. The membership of any person in said club shall be determined by his death, or by his voluntary withdrawal therefrom, or by expulsion therefrom, and the manner of such withdrawal or expulsion of members shall be determined and provided by the constitution or by-laws of said corporation, and upon such death, withdrawal or expulsion, all and every right, title and interest of the person whose membership is so determined, in or to said corporation or its property or effects, shall at once cease and be forever at an end.

¶ Section 8 of revision authorizes the adoption of by-laws regulating admission and expulsion of members, and the termination of membership. Section 9 of revision provides that on termination of membership the interest of a member in the corporation and its property ceases, unless otherwise provided by the by-laws. ¶

§ 4. Any five or more of the officers or members of any unincorporated political club heretofore organized, when duly authorized by vote of said club, may avail themselves of the provisions of this act, by signing, acknowledging and filing a certificate in writing as provided in section one of this act, and thereupon all property, rights and interests of said club then held by any or either of its officers or members, or any person or persons, for its use and benefit, shall by virtue of this act vest in and become the property of the corporation so created, subject to the payment of the debts of said club. The several officers and committees of any club which may avail themselves of the provisions of this act, shall continue to hold their respective offices of said club, with the powers and duties prescribed by the constitution and by-laws of said club, until their successors shall be elected and installed, and in case of any previous vacancy among such officers, it shall be filled in the manner prescribed by the constitution and by-laws already adopted by said club or as the same may in conformity therewith be altered or amended by said corporation; and the constitution and by-laws of said club existing at the time its officers or members may avail themselves of the provisions of this act, shall be the constitution and by-laws

(Laws 1886, ch. 236; R. S., 8th ed., 2029.)

of said corporation until so altered or amended by said corporation.

**[By § 5 of revision incorporation may be effected substantially as here provided.]**

§ 5. The club so incorporated may elect, from its members, its trustees, directors, managers or executive committee, except as hereinbefore provided; and the trustees, directors, managers or executive committee so elected may divide the whole number of trustees, directors, managers or executive committee into classes, so that not less than one-fifth of their number shall be elected annually after the first organization of any board of such trustees, directors, managers or executive committee. Such election may be held at such time and place and in such manner as may be specified in the constitution or by-laws; and such board, together with the officers of the club for the time being, shall have the control and management of the affairs and funds of said club, a majority of whom shall be a quorum for the transaction of business, and whenever any vacancy shall occur in such board, by death, resignation or neglect to serve, such vacancy shall be filled in such manner as shall be provided by the constitution or by-laws of such club. The number of trustees, directors, managers or executive committee in any corporation, organized under this act, shall not be less than five nor more than forty.

**[Section 10 of revision provides that the directors shall be members. Section 8 of revision provides that the by-laws may classify the directors, regulate elections and provide for the filling of vacancies. Section 29 of Gen. Corporation Law gives to the directors the management of corporate affairs and fixes a majority as a quorum. Section 31 of revision fixes the number of directors at not less than three nor more than thirty.]**

§ 6. In case it shall, at any time, happen that an election of trustees, directors, managers or members of the executive committee shall not be made on the day designated by the by-laws, said club, for that cause, shall not be dissolved, but it shall and may be lawful on any other day to hold an election for trustees, directors, managers or members of the executive committee in such manner as may be directed by the constitution or by-laws of such club.

**[Covered by the provisions of §§ 23--26 of General Corporation Law.]**

(L. 1886, ch. 333 amends L. 1877, ch. 228.)

(L. 1886, ch. 666; R. S., 8th ed., 202.)

Section 1. Any library association duly incorporated under the laws of this state and located in any city of the state, which owns real estate of the value of at least twenty thousand dollars in said city and also at least ten thousand volumes and maintains the same as a free public library or a free library for the free circulation of books, among the inhabitants of said city and which shall have actually circulated in the twelve months next preceding the date of the application herein authorized at least seventy-five thousand volumes, is hereby authorized to apply to the common council or other proper authority, and in the city of New York to the board of estimate and apportionment, for the appropriation of a sum not exceeding five thousand dollars.

§ 2. Any such library association which shall have circulated in addition to the seventy-five thousand volumes above specified, more than one hundred thousand volumes, is hereby authorized to apply to the common council or other proper authority, and in the city of New York to the board of estimate and apportionment for a further appropriation of five thousand dollars for each one hundred thousand volumes so circulated in the twelve months next preceding the date of such application over and above the seventy-five thousand volumes above referred to.

§ 3. The term "circulation," as used in this act is hereby defined to mean the aggregate number of volumes actually withdrawn from the library, or libraries, of any library association, by the people of said city, for use in their own homes or places of business.

§ 4. The common council of the cities of this state, or other proper authorities of the same, are hereby authorized and empowered to make proper provision for the payments of the appropriation as herein provided for.

§ 5. In the city of New York the board of estimate and apportionment may annually include in its final estimate the sums or sum provided as herein to be appropriated to any such library association as is authorized to receive such appropriation or appropriations under the provisions of this act; provided, however, that the whole appropriation for any one library association shall not exceed the sum of forty thousand dollars in any one year.

[Repealed but not re-enacted, being superseded by L. 1892, ch. 378, § 37.]

(L. 1887, ch. 313; R. S., 8th ed., 2043.)

Section 1. Any library association duly incorporated under the laws of this state, and located in any village or city of the state, having a population of not exceeding thirty thousand, which owns

(Laws 1887, ch. 313; R. S., 8th ed., 2043.)

real estate of the value of at least four thousand dollars, or pays rent of at least three hundred dollars per annum in said village or city, and also owns at least five thousand volumes and maintains the same as a free public library, or a free library for the free circulation of books among the inhabitants of said village or city, and which shall have actually circulated in the twelve months next preceding the date of the application herein authorized, at least fifteen thousand volumes, is hereby authorized to apply to the board of trustees, common council or other proper authority for the appropriation of a sum not exceeding one thousand dollars.

§ 2. Any such library association which shall have circulated in addition to the fifteen thousand volumes above specified, more than fifteen thousand volumes, is hereby authorized to apply to the board of trustees, common council, or proper authority, for a further appropriation of one thousand dollars for each fifteen thousand volumes so circulated in the twelve months next preceding the date of such application, over and above the fifteen thousand volumes above referred to.

§ 3. The term "circulation," as used in this act, is hereby defined to mean the aggregate number of volumes actually withdrawn from the library or libraries of any said library association, by the people of said village or city, for use in their own homes or places of business.

§ 4. The board of trustees of villages, the common council of cities of this state or other proper authorities of the same, are hereby authorized and empowered to make proper provision for the payments of the appropriation as herein provided for, and also to raise by tax, in the manner now provided by law, the amount of the appropriation herein provided for, in addition to the sum which they are now authorized to raise.

**[Repealed but not re-enacted, being superseded by L. 1892, ch. 378, § 37.]**

(Laws 1887, chap. 317; R. S., 8th ed., 2031.)

Section 1. Any nine or more attorneys, or counselors of the supreme court of this state, in active practice therein, and residing or having offices in the same county, being citizens of the United States and of this state; who desire to form themselves into an association to cultivate the science of jurisprudence, to promote reform in the law, to facilitate the administration of justice, to elevate the standard of integrity, honor and courtesy in the legal profession, and to cherish the spirit of brotherhood among the members thereof, may sign and acknowledge before any officer authorized to take acknowledgments of deeds in this state,

(Laws 1887, ch. 317; R. S., 8th ed., 2032.)

and file in the office of the secretary of state, and a duplicate thereof in the office of the clerk of the county in which such association is formed, a certificate, in writing, to be approved by three justices of the supreme court, in which shall be stated the name of said association, its object, the number of trustees who shall manage the same, the names of the trustees for the first year of its existence, and the name of the county in and for which it is formed.

【Re-enacted in section 100 of revision. Number of incorporators changed to not less than five.】

§ 2. Upon filing a certificate as aforesaid, the persons who shall have signed and acknowledged such certificate and their associates and successors, shall thereupon, by virtue of this act, be a body politic and corporate by the name stated in such certificate. Such association shall have succession, and shall be capable in law of suing and being sued, and may have and use a common seal, and may alter and change the same at pleasure, and shall in law be capable of taking, receiving, purchasing, leasing and holding real estate for the purpose of such association to an amount not exceeding the sum of two hundred thousand dollars in value, exclusive of the buildings and improvements thereon, and personal estate not exceeding in amount the sum of fifty thousand dollars in value, but the clear annual income of such real and personal estate shall not exceed the sum of twenty-five thousand dollars; to make by-laws, rules and regulations for the government of said association, and for admission, voluntary withdrawal, censure, suspension and expulsion of its members; for the establishment and collection of the fees and dues of its members, the number and election of its officers, and to define their duties and compensation, and for the safekeeping of its property, and from time to time alter, modify or change such by-laws, rules and regulations; provided, however, that no by-laws, rules or regulations shall be made or adopted by said association which shall be inconsistent with the constitution and laws of the United States or of this state; and provided, further, that no one shall be eligible to active membership in such association unless he resides, or has an office, in the county in and for which such association is formed, and is an attorney and counselor of the supreme court of this state.

【The provision that on filing certificate, the corporation is formed, is in section 100 of revision. The general powers of the corporation are in section 11, Gen. Corp. L. The power to hold property is superseded by Gen. Corp. L., § 12, which authorizes

(Laws 1887, ch. 317; R. S., 8th ed., 2032.)

\$3,000,000. The power to make by-laws for various purposes is in section 8 of revision, and Gen. Corp. L., § 11.]

§ 3. The membership of any person in said association shall be determined by his death or his voluntary withdrawal therefrom, or by expulsion therefrom, and the manner of such withdrawal or expulsion of members shall be determined and provided by the by-laws of said association, and upon such death, withdrawal or expulsion, all and every right, title and interest of the person whose membership is so determined of, in and to the property and effects of said association, shall thereupon be forever at an end.

**[Sections 8 and 9 of revision.]**

§ 4. The association so incorporated shall elect its trustees from its members. Such election may be held at such time and place, and in such manner as may be specified in the by-laws, and such board shall have the control and management of the affairs and property of said association. A majority of such board shall constitute a quorum for the transaction of business, and whenever any vacancy shall happen among such trustees, by death, resignation or neglect to serve, such vacancy shall be filled in such manner as shall be provided by the by-laws of such association.

**[Section 9 of revision provides that directors shall be members. Section 8 of revision authorizes the adoption of by-laws regulating elections and the filling of vacancies. Section 29 of Gen. Corporation L. gives to the directors the management of corporate affairs, and makes a majority a quorum.]**

§ 5. Any association organized under this act may at any time, and in such manner as shall be provided by the by-laws of such association, increase the number of trustees to not more than twenty-one (21), or diminish to not less than nine (9). Whenever the trustees are diminished or increased, the existing trustees of any such association, or a majority of them, shall sign and acknowledge before any officer authorized to take acknowledgments of deeds in this state, and file in the office of the secretary of state, and also in the office of the clerk of the county where the original certificate of incorporation is filed, a certificate in writing declaring how many trustees such association shall thereafter have, and from and after the filing of such certificate the number of trustees of such association shall be deemed increased or diminished to the number therein stated.

**[Section 14 of revision authorizes a change in the number of trustees to not less than three nor more than thirty by action of a corporate meeting.]**

(Laws 1887, ch. 317; R. S., 8th ed., 2033.)

[Section 6 was repealed by Gen. Corp. L. of 1890.]

[Section 7. Devises. Not repealed.]

§ 8. The trustees of any association organized under the provisions of this act who shall consent to the contracting of any debt by such association shall be jointly and severally liable therefor, provided that an action for the collection of the debt shall be brought within one year after the same shall become due.

[Section 11 of revision makes the directors liable for debts contracted while they are directors, payable within one year, provided an action is brought against the corporation within one year and a second action is brought against the directors within one year after execution against the corporation is returned unsatisfied.]

(L. 1887, ch. 501; R. S., 8th ed., 1933.)

Section 1. Any twenty or more persons, being citizens and residents within this state, and having associated themselves as a young men's Christian association, for the improvement of the spiritual, mental, social and physical condition of young men, by the support and maintenance of lecture-rooms, libraries, reading-rooms, religious and social meetings, gymnasiums and such other means and services as may conduce to the accomplishment of that object, according to the general rules and regulations of the state executive committee of the young men's Christian associations of this state, may make, sign and acknowledge before any officer authorized to take acknowledgments of deeds in this state and, with the written consent and approbation of one of the justices of the supreme court, file in the office of the secretary of state, and also in the office of the clerk of the county in which such society is to have its principal office, a certificate in writing in which shall be stated the object of such association to be that above set forth, the place wherein the principal office is to be located, the number and names of the directors or managers of such association for the first year of its existence, and also the names of six trustees who, together with the president of the association, shall form a board of trustees to hold and control the real property of such association.

[Re-enacted in § 90 of revision, without change of substance.]

§ 2. Upon filing a certificate as aforesaid the persons who shall have signed and acknowledged such certificate and their associates and successors shall thereupon by virtue of this act be a body politic and corporate by the name of "the young men's Christian association of" (the place named in said certificate),

(Laws 1887, ch. 501; R. S., 8th ed., 1934.)

and by that name they and their successors shall and may have succession, and shall be persons in law capable of suing and being sued; and they and their successors may have and use a common seal, and the same may alter and change at pleasure, and they and their successors by their corporate name shall in law be capable of taking and receiving by devise or otherwise, purchasing and holding real estate for the purposes of their incorporation, and for no other purpose; and shall have power to make by-laws for the management of the affairs of such association not inconsistent with the constitution and laws of this state; and to elect and appoint the officers and agents of such association for the management of its business and carrying out its object, and to allow them a suitable compensation. (Thus am. by L. 1890, ch. 104.)

【The provision that on filing the certificate, the corporation is formed, is in § 90 of revision. The general powers of the corporation are in Gen. Corp. L., § 11. The power to make by-laws is in § 8 of revision and § 11 of Gen. Corp. Law.】

[Section 3 was repealed by Gen. Corp. L. of 1890.]

§ 4. Each member of the board of trustees shall be a member of one of the Protestant Evangelical denominations, but not more than two of such members, exclusive of the president of the association, shall be members of any one denomination. The several trustees shall hold office for such a term or terms as may be prescribed by the by-laws duly established and adopted by the board of trustees; and whenever a vacancy occurs in said board of trustees by expiry of term or otherwise, the same shall be filled by a majority vote of the remaining trustees.

【The first sentence is in section 90 of revision. The by-laws adopted pursuant to section 8 of revision may regulate the terms of office and the manner of filling vacancies.】

§ 5. The real property of the association shall be managed by the board of directors or managers of such association, but all real property which shall be given or acquired by such association, and all gifts and bequests of money to be held in trust, shall be held by the board of trustees; but no real property belonging to an association so incorporated shall be conveyed, disposed of or mortgaged by said board of trustees except under the direction of such association, nor shall such real property be liable for any debt or obligation of the corporation, unless such debt or obligation shall have been contracted with the approval of the board of trustees. The income which the said board of trustees shall receive from the property under its control and the said property shall be

(Laws 1887, ch. 501; R. S., 8th ed., 1934.)

devoted to the purposes of this act and for no other purpose and so long as the managers or directors of the association for which they are trustees shall so expend the same, the income of the property so controlled by the said board of trustees shall be paid over to the treasurer of such association.

【Section 91 of revision. By section 13 the real property can only be mortgaged, sold or leased, with leave of the court.】

§ 6. All associations organized under this act shall be subject to and included in, and entitled to all the benefits of chapter fifty-eight of the laws of one thousand eight hundred and sixty-one, entitled "An act to authorize the leasing or sale and conveyance of the real estate of benevolent, charitable, scientific, missionary societies and orphan asylums." And it is hereby further provided that where there shall have existed a corporation or association owning or holding property, real or personal, which they shall desire to convey and transfer to a corporation organized under this act, that it shall be lawful for the supreme court of this State, on an application made in the judicial district where such corporation or association shall be located, upon the application of three-fourths of the trustees of such new corporation, to make an order authorizing such transfer and conveyance, specifying by whom the same shall be executed, and such transfer or conveyance, when so made, shall vest in the grantees thereof full and absolute title and property subject only to such liens or incumbrances as existed thereon immediately prior to such transfer or conveyance. (Added by L. 1889, ch. 33.)

【Transfer of property on consent of court, allowed generally by this section, is restricted to a conveyance to a corporation of the same or a kindred nature by § 13 of revision.】

(L. 1887, ch. 606, amends L. 1855, ch. 425.)

(L. 1887, ch. 645, amends L. 1865, ch. 368.)

(L. 1888, ch. 293; R. S., 8th ed., 2013.)

Section 1. Any fifteen or more persons of full age, citizens of the United States, a majority of whom shall be citizens of, and residents within this state, who shall desire to associate themselves together for the purpose of providing parks and play-grounds for children in any of the cities, towns or villages of this state, may make, sign and acknowledge, before any person authorized to take the acknowledgment of deeds in this state, and file in the office of the secretary of state, and also in the office of the clerk of the county in which such park or play-grounds are to be situated, certificates in writing in which shall be stated the name

(Laws 1888, ch. 293; R. S., 8th ed., 2014.)

or title by which the society shall be known in law, the city, town or village in which it is proposed to establish such parks or play-grounds, the number of trustees, directors or managers to manage the same; the names of the trustees, directors or managers of such society for the first year of its existence; but such certificate shall not be filed unless by the written consent and approbation of one of the justices of the supreme court of the department in which such parks or play grounds are to be situated, to be indorsed on such certificate.

**[Sections 30-31 of revision. Minimum number of incorporators changed to five.]**

§ 2. Upon filing a certificate as aforesaid, the persons who shall have signed and acknowledged such certificate, and their associates and successors, shall thereupon by virtue of this act be a body politic and corporate by the name stated in such certificate, and by that name, they and their successors shall and may have succession and shall be a person in law capable of suing and being sued, and they and their successors may have and use a common seal and the same may alter and change at pleasure; and they and their successors by their corporate name, shall, in law, be capable of taking, receiving, purchasing and holding by gift, purchase, bequest or devise, real and personal estate for the purposes of their incorporation and for no other purpose to an amount not exceeding the sum of one-half million dollars and such additional amount as may be authorized by the mayor and common council of any city or supervisor of any town or trustees of any village, as the case may be, in which it is proposed to establish and maintain such parks; and shall have power to make by-laws and rules for the management of its affairs and for the protection of its property and maintenance of order; to elect and appoint officers and agents of such society; and generally to manage and conduct its affairs consistently with the constitution and laws of this state and of the United States and so as to promote the objects and purposes of its incorporation. Such corporations may also at their own expense appoint and employ police officers, who shall for the purpose of enforcing order and compliance with their orders, have all the powers and authority of the public police officers or patrolmen of the city, town or village wherein such parks or play-grounds may be situated within the limits of their parks or play-grounds and within one thousand feet of the limits thereof, subject however to all laws, ordinances or police regulations of the cities, towns or villages in which such parks and play-grounds may be situated and sub-

(Laws 1888, ch. 293; R. S., 8th ed., 2014.)

ject to the authority of the commissioners, superintendents, captains, sergeants or other superior police officers or authority of the particular district or locality in which the same may be.

[Provision that on filing certificate corporation is formed is in § 31 of revision. The general powers of the corporation are in § 11 of Gen. Corp. L. The provision as to power of holding property is superseded by Gen. Corp. L., § 12. The power to make by-laws is in § 8 of revision. The provision in relation to police officers is not repealed here. It is to be re-enacted in the Code of Criminal Procedure.]

§ 3. The society so incorporated may annually elect from its members its trustees, directors or managers, in classes or otherwise, and at such time and place, and in such manner and numbers as may be specified in its by-laws, who shall have the control and management of the affairs, property and funds of said society, a majority of whom shall be a quorum for the transaction of business, if not otherwise provided in the by-laws, except that no purchase, lease or sale of real estate shall be made unless two-thirds of the whole number are present at the meeting at which it is ordered; and whenever any vacancy shall happen among such trustees, directors or managers, by death, resignation or neglect to serve, such vacancy shall be filled in such manner as shall be provided by the by-laws of such society.

[Section 10 of revision provides that the directors shall be elected from among the members. Section 8 of revision authorizes the adoption of by-laws regulating elections, classifying trustees, etc. By section 13 of revision, real property can be purchased, sold or mortgaged only with the concurrence of two-thirds of the directors; and sold or mortgaged only on leave of the court.]

[Section 4 repealed by Gen. Corp. L. of 1890.]

§ 5. The provisions of this act shall not extend or apply to any association or individuals who shall, in the certificate filed with the secretary of state, or with the county clerk, use or specify a name or style the same as that of any previously existing incorporated society in this state.

[Superseded by Gen. Corp. L., § 6.]

§ 6. All institutions formed under this act, together with their books and vouchers, shall be subject to the visitation and inspection of the justices of the supreme court, or by any person or persons who shall be appointed by the supreme court for that purpose, and it shall be the duty of the trustees, or a majority of

(Laws 1888, ch. 293; R. S., 8th ed., 2014.)

them, in the month of December in each year, to make and file in the county clerk's office, where the original certificate is filed, a certificate under their hands stating the names of the trustees and officers of such association or corporation, with an inventory of the property, effects and liabilities thereof, with an affidavit of the truth of such certificate and inventory, and also an affidavit that such association or corporation has not been engaged, directly or indirectly, in any other business than such as is set forth in the original certificate on file.

【Visitation of supreme court is retained in section 16 of revision. Filing of annual report no longer required, but section 11 requires a report of the directors at the annual meeting. See note to sections 11 and 16.】

(L. 1888, ch. 299 amends L. 1866, ch. 273.)

(L. 1888, chap. 391; R. S., 8th ed., 2087.)

Section 1. Any five or more citizens of the United States and of the state of New York, of full age, who desire to form themselves into a corporation or association for the purpose of educating, training and providing skilled nurses for the sick, and of doing such other practical or charitable work in hospital and elsewhere as may be consistent therewith, may sign and acknowledge before any officer authorized to take acknowledgment of deeds in this state and file in the office of the secretary of state, and also in the office of the clerk of the county where such corporation is to be formed, a certificate in writing to be approved as to form by one of the justices of the New York supreme court. In such certificate shall be stated the name of the proposed corporation, the number of managers who shall control the business of such corporation, and the names of the managers who shall hold office for the first year of its existence and until their successors are elected and qualified, together with the name of the city or county in which such corporation shall be formed.

【Re-enacted in sections 30 and 31 of revision without change of substance.】

§ 2. Upon filing the certificate described in section one of this act, the persons who shall have signed and acknowledged it, their associates and successors shall thereupon, by virtue of this act, be a body politic and corporate by the name stated in such certificate. They and their successors shall, as such corporation, be capable of suing and of being sued; may have and use a corporate seal and alter it at pleasure. Such corporation shall have the power to take and receive real and personal property either by

(Laws 1888, ch. 391; R. S., 8th ed., 2087.)

gift, grant, purchase, demise or devise, and to hold the same subject to all the provisions of law, relating to purchase and to devises and bequests by last will and testament; and to sell, mortgage or lease the same as it may deem best, but the amount of the real estate which such corporation shall hold at any one time shall not, exclusive of buildings and improvements, exceed the value of twenty-five thousand dollars, or pay an annual income exceeding fifteen hundred dollars.

[Provision that on filing certificate, corporation is formed is in section 31 of revision. The general powers of the corporation are prescribed by Gen. Corp. L., § 11. The power to hold property is superseded by Gen. C. L., § 12, which authorizes \$3,000,000. By section 13 of revision, the real property of the corporation may be sold, but only on order of the court, after a concurring vote of two-thirds of the directors.]

§ 3. The entire business and property of said corporation shall be controlled by its managers, who shall have full power from time to time to establish rules and make by-laws, not inconsistent with the laws of this state, for the election of its managers and their officers, for filling all vacancies, the conduct of meetings and the management of all the business of the corporation.

[By section 8 of revision the members are given the power to make by-laws instead of the directors, as provided by this section.]

§ 4. The number of managers of said corporation may be increased or decreased at pleasure by the vote of a quorum of the managers, at any meeting of which notice has first been given to all the managers then holding office. All managers shall hold office during the term for which they are originally appointed, or are elected, pursuant to the by-laws, until their successors are elected, and have qualified, and all vacancies by death, resignation or failure to act, may be filled as shall be provided in the by-laws.

[Section 14 of revision authorizes the members to change the number of directors to not less than three nor more than thirty. By this section a quorum of the directors can make the change. The provision that vacancies shall be filled as provided by the by-laws is in section 8 of revision.]

[Section 5. Repealed by Gen. Corp. L. 1890.]

§ 6. The trustees, managers or directors of any existing association or corporation heretofore organized under any other law for the general purposes specified in the first section of this act, may, by conforming to the requirements of the first section of this act,

(Laws 1888, ch. 391; R. S., 8th ed., 2087.)

reincorporate themselves, and all the property and effects of such existing corporation shall vest in and belong to the corporation thus reincorporated, and the said corporation thus reincorporated, and its managers, shall thereafter be subject to the obligations and enjoy the privileges of this act precisely as if originally organized thereunder.

**[**Section 6 of revision authorizes corporations created by special law to reincorporate under Membership Corporations Law and thereafter be subject to its provisions only. Corporations subject to laws repealed by the Membership Corporations Law are subject to its provisions without reincorporation.**]**

(L. 1888, ch. 415 amends L. 1868, ch. 402.)

(L. 1888, ch. 484 amends L. 1847, ch. 133.)

(L. 1888, chap. 490; R. S., 8th ed., 1932.)

Section 1. Any five or more persons of full age, a majority of whom shall be citizens of and residents within this state, who shall desire to associate themselves together for the purpose of preventing cruelty to animals, may make, sign and acknowledge before any person authorized to take acknowledgment of deeds in this state, and file in the office of the secretary of state, and also in the office of the clerk of the county in which the business of the society is to be conducted, a certificate in writing, in which shall be stated the name or title by which such society shall be known in law, the particular business and objects of such society, the number of trustees, directors, or managers to manage the same, and the names of the trustees, directors or managers of the society for the first year of its existence. But such certificate shall not be filed, unless the written consent and approbation thereof of one of the justices of the supreme court of the district in which the place of business or principal office of such society shall be located, be first indorsed on such certificate, and no certificate for the incorporation of such a society shall be filed, unless there is annexed thereto, the written certificate of the president or acting president of the American Society for the Prevention of Cruelty to Animals, approving of such organization and incorporation. The provisions of this act shall not extend or apply to any association or individuals who shall, in the certificate filed as hereinbefore provided, use or specify a name or style, the same or substantially the same, as that of any heretofore existing incorporated society for the prevention of cruelty to animals in this state, and not more than one such society shall be incorporated or located in the same county within this state; shall any society be incorporated under this act in the city

(Laws 1888, ch. 490; R. S., 8th ed., 1933.)

or county of New York, or in the counties of Kings, Queens, Suffolk, Richmond or Westchester nor shall any society incorporated under this act, or its agents, exercise any power in any county except the county in which it is incorporated, but nothing herein contained shall apply to any society now incorporated. (Thus am. by L. 1892, ch. 291.)

【Provisions for filing certificate are in section 70 of revision. Provisions as to approval of certificate are in section 70 of revision. Provision that society shall not use same name as another corporation is superseded by Gen. C. L., § 6. Section 71 provides that, unless heretofore incorporated, there shall not be more than one society in a county. Provision that societies shall not be incorporated in certain counties is in section 71 of revision.】

§ 2. Upon filing the certificate as aforesaid, the persons who shall have signed and acknowledged such certificate, and their associates and successors, shall thereupon, by virtue of this act, be a body politic and corporate by the name stated in such certificate, and as such shall have power,

1. To have perpetual succession by its corporate name.
2. To sue and be sued, complain and defend, in any court of law or equity.
3. To make and use a common seal, which may be affixed by making an impression directly on the paper, and alter the same at pleasure.
4. To appoint such officers, managers and agents as the business of the corporation may require.
5. To make by-laws not inconsistent with the laws of this state or United States, for the management of its property and the regulation of its affairs.
6. To contract and be contracted with.
7. To take and hold by gift, purchase, grant, devise or bequest, any property, real or personal, and the same to dispose of at pleasure. But such corporation shall not, in its corporate capacity, hold real estate, the yearly income derived from which shall exceed the sum of fifty thousand dollars.
8. To exercise any corporate powers necessary to the exercise of the powers above enumerated and given.

【The general powers of the corporation are in Gen. Corp. L., § 11. Gen. Corp. L., § 12, authorizes the holding of property to the amount of \$3,000,000. Section 8 of revision and Gen. Corp. L., § 11, authorize the corporation to adopt by-laws.】

§ 3. Every society so incorporated shall be vested with the title, use and enjoyment of any gift, grant, devise or bequest which has

(Laws 1888, ch. 490; R. S., 8th ed., 1933.)

been made to such society before its incorporation, which, by the consent of the American Society for the Prevention of Cruelty to Animals, has been heretofore used and enjoyed by it.

**[Omitted.]**

§ 4. All magistrates, constables, sheriffs and officers of police shall, as occasion may require, aid every society so incorporated, its officers, members and agents in the enforcement of all laws which now are or may hereafter be enacted, relating to or affecting animals.

**[Section 72 of revision, without change of substance.]**

(L. 1888, ch. 536, amends L. 1875, ch. 267.)

(L. 1889, ch. 33 amends L. 1877, ch. 501.)

(L. 1889, ch. 95 R. S., 8th ed. (Supp.), 3353.)

Section 1. Any number of persons, more than eleven in number, who may desire to form a corporation for the purpose of erecting, establishing, maintaining and operating a hospital, infirmary or home for the reception, care, maintenace, giving of medical and surgical advice, aid and treatment to persons afflicted with maladies or physical injuries, or physical weaknesses or deformities or infirmities, or a home for aged and indigent persons or free dispensary, may make, sign and acknowledge, before an officer competent to take the acknowledgment of deeds, and file in the office of the clerk of the county in which such hospital, infirmary or home is to be located and a duplicate thereof in the office of the Secretary of State, a certificate in writing in which shall be state the corporate name of said corporation, and the objects for which the same shall be formed, the names of the persons who shall form the board of managers of said corporation for the first year, the term of duration of such corporation, and the name of the town or city and county in which the said hospital, home, infirmary or dispensary is to be located; and thereupon said persons and such other persons as may thereafter become associated with them, shall become and be a corporation by the corporate name specified in the said certificate.

**[Section 80 of revision. Minimum number of incorporators changed to five.]**

§ 2. It shall be lawful for any corporation organized under the provisions of this act, to establish and maintain an institution for any one or more or all the purposes mentioned in the first section hereof, provided that the certificate of incorporation specify precisely for which of said purposes such institution is to be established.

**[Section 80 of revision.]**

(Laws 1889, ch. 95; R. S., 8th ed. [Supp.], 3353.)

§ 3. Such corporation shall have power to take, receive, and hold, by gift, grant, devise or bequest, in trust or in perpetuity, any real and personal estate, either and both, for the uses and purposes of the said corporation; provided, however, that the annual net income of its property, real and personal, shall not exceed two hundred thousand dollars.

**[Superseded by Gen. Corp. L., § 12, which authorizes corporation to hold property of the value of \$3,000,000.]**

[Section 4. Exemption from taxation. Not repealed.]

§ 5. It shall be lawful for the certificate of incorporation hereinbefore mentioned, to declare and prescribe what shall be the qualifications of members of the said corporation in the matter of adherence or non-adherence to any particular school or theory of medical or surgical treatment, and what system of practice of medicine or treatment shall be used and applied in such hospital, infirmary or home.

**[Section 80 of revision without change in substance.]**

§ 6. The affairs of such corporation shall be conducted, managed and administered by a board of managers, to consist of nine persons. The persons named as managers or trustees for the first year in the certificate of association hereinbefore mentioned, shall administer the affairs of the said corporation and its hospital, infirmary or home, for the first year after its organization. At the expiration of said year, and annually thereafter, an election of members of the board of managers shall be had. Such election shall be by ballot and all members of the corporation shall be entitled to vote thereat. Only members of the corporation shall be eligible as members of such board. At the first election a full board shall be chosen. The persons there elected shall divide themselves by lot into three classes of three members each. Those in the first class shall hold office for one year; those in the second class for two years, and those in the third class for three years. At each subsequent annual election three members of the board shall be elected, who shall hold office for three years. Members of said board shall hold office until their successors are elected. The board of managers shall have power to fill all vacancies occurring in said board by death, resignation or any other cause, except expiration of term. Such elections to fill vacancies shall be made by ballot. A person elected to fill a vacancy shall serve only for the balance of the term in which the vacancy occurred, or until his successor is elected.

**[By § 29 of Gen. Corp. L. the directors are given the management of corporate affairs. Section 8 of revision authorizes the**

(Laws 1889, ch. 95; R. S., 8th ed. [Supp.], 3354.)

adoption of by-laws regulating elections, eligibility of members, classification of directors, filling of vacancies, etc.】

§ 7. The board of managers shall annually elect from their own number a president, a vice-president, secretary and treasurer, who shall hold office respectively for one year or until their successors are elected. The said board shall also appoint such subordinate officers, physicians, surgeons, nurses, assistants and servants of such institution, as in their judgment its needs demand; and shall fix the compensation of such subordinates, define their duties, and shall have power to remove them or any one of them in the discretion of said board. The board of managers may also create an executive committee consisting of as many members of the board as they may deem advisable, and may delegate to such executive committee such powers of control and management of the home, hospital, dispensary or infirmary as they deem proper; such powers, however, to be distinctly specified in the by-laws. A majority of said board of managers shall constitute a quorum for the transaction of business except the sale or alienation of any of the real or personal estate of said corporation, or the leasing of any such real estate for a term longer than one year, for which purposes, or any of them the consent of three-fourths of all the members of said board shall be necessary.

【By section 8 of revision, the by-laws are to provide for election of officers, etc. This section authorized board to sell, etc., real property on consent of three-fourths of the members. By section 13 of revision this can be done on order of the court, with the concurring vote of two-thirds of the directors. Gen. Corporation L., § 29, fixes a majority of the directors as a quorum.】

§ 8. The board of managers shall make by-laws for the conduct of the affairs of the corporation. No alteration or amendment of the by-laws, nor an addition thereto, shall be made except by majority vote of the board of managers at a meeting of said board, nor unless a written notice of an intention to propose such alteration, amendment or addition at a meeting of such board to be held at a time and place mentioned in such notice has been served personally upon each member of said board at least three days prior to the time mentioned in such notice for the holding of such meeting. The vote upon all questions of change, amendment or addition to the by-laws shall be taken by calling the roll of said board, and upon such vote the ayes and nays shall be recorded in the minutes. The by-laws shall define the duties of the various officers, appointees and servants of the corporation, and of the executive committee of the board of managers. The

(Laws 1889, ch. 95; R. S., 8th ed. [Supp.], 3355.)

by-laws may specify what classes and descriptions of persons shall or may receive treatment, advice, care and maintenance from said hospital, infirmary, dispensary or home. The by-laws shall fix the dates of the annual and other elections of officers, and shall prescribe the method by which persons may be admitted to membership of the corporation, and the terms and conditions of such membership not inconsistent with the statutes of this state.

【By section 8 of revision and § 11 of Gen. Corp. L. the members instead of the directors are authorized to make by-laws, covering the subjects specified in this section. Subject, however, to the by-laws adopted by the corporation, the directors may make the necessary by-laws therefor.】

§ 9. No member of the board of managers shall receive, directly or indirectly, any compensation for his services as such member, nor for his services as president, vice-president, secretary or treasurer in case he be elected to either of such offices, nor shall any member of said board be interested, directly or indirectly, in any contract relating to the hospital, home, dispensary, infirmary or other institution maintained by said corporation, nor in any contract for the furnishing of supplies thereto.

【See note to section 12 of revision.】

§ 10. The legislature may at any time regulate any corporation formed under this act, or modify its powers, or annul its charter and dissolve such corporation.

§ 11. This act shall take effect immediately.

(L. 1889, ch. 301 amends L. 1865, ch. 368.)

(L. 1890, ch. 27 amends L. 1873, ch. 397.)

(L. 1890, ch. 68 amends L. 1875, ch. 267.)

(L. 1890, ch. 104 amends L. 1887, ch. 501.)

(L. 1890, ch. 118; R. S., 8th ed., Supp. 3413.)

Section 1. Any number of persons, not less than twenty-five, of full age, citizens of the United States and the state of New York, who shall be honorably discharged soldiers or sailors of the union army or navy or lineal male descendants of such soldiers or sailors, who shall desire to associate themselves together for social, literary, patriotic, charitable and historical purposes, may make, sign and acknowledge before any person authorized to take the acknowledgment of deeds in this state, and file in the office of the secretary of state and also in the office of the clerk of the county in which the business of such society is to be conducted, certificates in writing, in which shall be stated the name or title by which society shall be known in law, the particular objects

(Laws 1890, ch. 118; R. S., 8th ed. [Supp.], 3413.)

and business of such society, the number of trustees or managers who shall conduct the same, and the names of fifteen trustees or managers, one-fifth of whom shall retire at the end of the first year, and one-fifth at the end of each successive year of the existence of such corporation; but such certificate shall not be filed unless by the written consent and approbation of one of the justices of the supreme court of the district in which such society is located and where its business is to be conducted, to be indorsed on such certificate.

[The provision of § 1, specifying the qualifications of incorporators, is not re-enacted, as it is covered by § 4 of the Gen. Corp. L. The provision prescribing before whom the certificate may be acknowledged, is not re-enacted, as it is covered by § 15 of the Stat. Const. L., and the provision relating to the filing of the certificate is not re-enacted, as it is covered by § 5 of the Gen. Corp. L.

The remainder of the section is re-enacted in § 110 of revision, changed only so as to require the approval of any justice of the supreme court instead of requiring the written consent and approbation of one of the justices of the district in which such society is located.]

§ 2. Upon filing a certificate as aforesaid, the persons who shall have signed such certificate, and their associates and successors, shall thereupon, by virtue of this act, be a body politic and corporate by the name stated in such certificate, and by that name they and their successors shall and may have succession and shall be persons in law capable of suing and being sued; and they may adopt and use a common seal, and may alter and change the same at pleasure; and they and their successors by their corporate name shall be capable in law of taking, receiving, purchasing and holding real estate for the purposes of this incorporation and for no other purpose, to an amount not exceeding the sum of one million dollars in value, and in addition thereto, all such cabinets, books, papers, paintings, flags, banners, statues, medals, relics, trophies, historical evidences and other personal estate as shall be necessary for maintaining the objects and carrying into effect the purposes of said corporation. And all sums over and above the necessary expenses and maintenance of such society and property, and to satisfy principal or interest upon any mortgages, loans or bonds, shall be reserved and held by said managers as a fund for purchase of memorials, preservation of relics and historical evidences and trophies, and for charity to union veterans, their families or descendants, and they may make by-laws for the conduct of its affairs not inconsistent with the laws of this state

(Laws 1890, ch. 118; R. S., 8th ed. [Supp.], 3414.)

or the United States, and shall have power to elect and appoint the officers and agents of such society and allow them a suitable compensation.

【The provisions of § 2 relating to the general powers of the corporation are not re-enacted, as they are covered by § 11 of the Gen. Corp. L. The amount of property which such corporations may hold is omitted because being non-stock corporations § 12 of the Gen. Corp. L. will apply. The remainder of such section relating to the reservation of certain moneys as a fund for purchase of memorials, etc., is re-enacted without change of substance in § 112 of revision.】

§ 3. The said real and personal estate, however invested, together with the property in said cabinets, books, papers, paintings, flags, banners, statues, medals, relics, trophies and historical evidences, shall be divided into bonds of one hundred dollars each, which shall be deemed personal property and be transferable as such. Each subscriber shall be liable individually to the amount unpaid on the bonds held by him and no more, for all the debts and liabilities of such corporation.

【Section 3 is re-enacted in § 111 of revision, modified so as to permit, but not require, a division of the property into shares.】

§ 4. There shall be a board of fifteen trustees of every corporation formed under this act to manage its affairs, and said trustees shall be chosen, by ballot, for terms of five years each; three to be chosen each successive year by a majority of votes of the bondholders voting at such election in such manner as may be prescribed by the by-laws, and they shall continue and be trustees until others are elected in their places. Vacancies shall be filled by the trustees as the by-laws shall provide. A failure to hold or make an election shall not dissolve said corporation, and the trustees, in such case, shall provide for a new election, which election the trustees shall cause to be duly made. The inspectors of the first election shall be chosen by the board of trustees named in the certificate. Subsequent inspectors shall be elected in the same manner and at the same time as the trustees.

【The provision relating to a failure to hold an election is not re-enacted, as it is covered by § 23 of the Gen. Corp. L. Section 110 of revision fixes the number of directors at fifteen. Section 8 of revision authorizes the adoption of by-laws regulating elections, the filling of vacancies, etc.】

§ 5. The annual meeting of said corporation for the choice of treasurer and other business, shall be held on the last Monday of

(Laws 1890, ch. 118; R. S., 8th ed. [Supp.], 3415.)

January, in each year, or such other day as the corporation shall, in its by-laws, prescribe for that purpose, and special meetings thereof shall be called on the requisition of holders of one-tenth in amount of the bonds made in writing to the board of trustees, which requisition shall express the object of such meeting. The by-laws shall not be amended, altered or repealed, except at the annual meeting or special meeting duly called as prescribed therein, notice of which shall be given in all notices therefor. At every meeting of the corporation the owner in his own right of the bonds of the corporation, shall be privileged to cast one vote for every bond so held, provided the same be produced or evidence of such ownership be lodged with the trustees and entered on the books of the same. Bonds of the corporation shall be secured by mortgage and the interest payable thereon shall be at the rate per centum fixed in said instrument of mortgage, but not to exceed six per cent. Authority to mortgage the property of the corporation shall be by resolution of the corporation at its annual meeting or a meeting specially called for that purpose as aforesaid. Second mortgage bonds may be prepared and furnished to subscribers and interest thereon in money not exceeding six per cent per annum may be paid by the vote of the trustees, annually, at the rate and amount earned and received by the corporation as shown by the statement at the annual meeting, to every owner and holder without distinction or difference, except as hereinafter provided.

【The certificate of incorporation may fix the time of the annual meeting. It may then be changed pursuant to section 15 of revision. The by-laws (section 8) may fix the rights of bondholders to vote. Real property can only be mortgaged or sold pursuant to section 13 of revision with the concurring vote of two-thirds of the directors, and on leave of the court.】

§ 6. No person shall hold and exercise the office of trustee unless he be a bondholder, holding bonds in his own right; and in addition thereto shall be either an honorably discharged soldier or sailor from the army or navy of the United States, or the lineal male descendant of such soldier or sailor of the United States of America or army of the associated colonies which established the United States, and only such persons shall vote for such trustees. The by-laws shall determine what evidence shall be required to establish the right to vote for trustees and eligibility thereto, and the inspectors shall enforce the same. The trustees shall appoint from their own number a president and other officers, but such officers shall not receive any salary or money compen-

(Laws 1890, ch. 118; R. S., 8th ed. [Supp.], 3415.)

sation therefor. They may also appoint such necessary agents and servants as the by-laws shall prescribe.

【Section 10 of revision provides that the directors shall be elected from among the members, but by-laws adopted pursuant to § 8 may prescribe additional qualifications. The by-laws may also regulate the qualification of voters, the manner of conducting elections, and the manner of choosing officers.】

§ 7. The estate, property and funds of said corporation shall be owned, held for and devoted solely to the patriotic, historical and charitable uses and purposes and objects of union veterans honorably discharged from the army or navy of the United States of America, and the descendants of such union veterans of the United States and the colonies which formed the same, and while so owned, held and devoted, shall be free from all taxation by the laws of this state.

【Omitted as unnecessary, being fully covered by L. 1893, ch. 498.】

§ 8. Every corporation formed under this act shall have power, from time to time, to borrow such sums of money as shall be necessary to construct, complete, operate or extend its building, library, museum, gallery, or the furniture and appurtenances thereof, and to issue its bonds for any amount so borrowed, and to mortgage its corporate property to secure the payment of any debt contracted by the corporation for the purposes aforesaid.

【Omitted. Under § 13 of revision the corporation can mortgage its property with the concurring vote of two-thirds of its directors, and on leave of the court.】

§ 9. All corporations formed under this act, together with its books and vouchers, shall be subject to the visitation and inspection of the justices of the supreme court, or by any person or persons who shall be appointed by the supreme court for that purpose; and it shall be the duty of the trustees or a majority of them, in the month of December of each year, to make and file in the county clerk's office where the original certificate is filed, a certificate under their hands stating the names of the trustees and officers, an inventory of the property, effects and liabilities, with an affidavit of the correctness of the same and that the corporation has not been engaged directly or indirectly in any other business than such as is set forth in its certificate of incorporation.

【The corporation is subject to visitation of supreme court under section 16 of revision. The provision requiring filing of annual inventory is omitted, but by section 11 the directors are required

(Laws 1890, ch. 118; R. S., 8th ed. [Supp.], 3415.)

to make an annual report to the corporation; and the filing of an inventory may be required by the court where mismanagement is shown, under section 16 of revision.】

§ 10. Every corporation formed under this act shall have the powers and be subject to the restrictions contained in the revised statute.

§ 11. This act shall in all courts and places be construed benignly and favorably for any benefit and purpose therein intended; and notwithstanding any misnomer or misdescription of said corporation in any will, deed, gift, grant, demise or other instrument of contract or conveyance to or for its use, the same shall take effect in like manner as if said corporation were rightly named, provided it be sufficiently described to ascertain the intent of the parties.

§ 12. This act shall take effect immediately.

【Sections 10-11 are not re-enacted.】

(L. 1890, ch. 229 amends L. 1847, ch. 133.)

(L. 1890, chap. 425; R. S., 8th ed. (Supp.), 3455.)

Section 1. Any corporation which has been heretofore or which shall be hereafter organized under chapter three hundred and nineteen of the laws of eighteen hundred and forty-eight, entitled "An act for the incorporation of benevolent, charitable, scientific and missionary societies," or under the said act as amended, may from time to time extend its business and objects to any business or objects authorized by the provisions of said chapter three hundred and nineteen of the law of eighteen hundred and forty-eight as amended, although said business and objects are not specified in its certificate of incorporation as originally filed, on obtaining the consent to such extension of not less than two-thirds of the trustees, directors or managers of such corporation, and also the consent of such corporation if it shall consist of other persons than said trustees, directors or managers, such consent to be obtained, and such extension effected, in the following manner: Not less than two thirds in number of the trustees, directors or managers of such corporation, as fixed by its original certificate of incorporation or by any certificate duly executed, approved and filed increasing or decreasing the same, may sign and acknowledge in the same manner as the original certificate of incorporation is required to be signed and acknowledged, a certificate in writing stating the particular business

(Laws 1890, ch. 425; R. S., 8th ed. [Supp.], 3455.)

and objects of said corporation as extended to which certificate there shall be attached, if said corporation is composed of other persons than said trustees, directors or managers, a certified copy of a resolution of said corporation, adopted by a two-thirds vote of the members thereof present and voting at a meeting of said corporation regularly called and held pursuant to its constitution, by-laws or rules, and at which a quorum was present, to the effect that the business and objects of said corporation be extended as provided in such certificate, which resolution and the facts as to its adoption as herein required shall be certified by the president and secretary of said meeting. and which said certificate of extension and resolution so certified, after the same and the business and objects therein specified have been consented to and approved by a justice of the supreme court of the district in which said corporation is located, said consent and approval to be indorsed thereon, shall be filed in the office of the secretary of state, and in the office of the clerk of the county in which the original certificate of incorporation is filed; and on and after the filing of said certificate and resolution such corporation shall be authorized to engage in, conduct, prosecute and promote the business and objects specified in the certificate so made and filed the same as if such business and objects were specified in the original certificate of incorporation and said original certificate shall be deemed amended accordingly; provided, however, that the provisions of this act shall not apply to any corporation organized for the purpose of carrying on the business of insurance of any kind upon any plan, and that nothing herein contained shall authorize any corporation organized for other purposes than carrying on the business of insurance to extend its business or objects to the carrying on of the business of insurance of any kind upon any plan, and that nothing herein contained shall authorize any corporation to extend its business to the conducting and carrying on of any literary or scientific college or university without the approval of the regents of the university of the state of New York, as required by chapter three hundred and sixty-seven of the laws of eighteen hundred and eighty-two, and that nothing herein contained shall authorize any corporation to extend its business or objects to the care or disposal of orphans, paupers or destitute children except with the approval of the state board of charities, as required by chapter four hundred and forty-six of the laws of eighteen hundred and eighty-three.

**[See note to section 4 of revision.]**

(L. 1891, ch. 10 amends L. 1855, ch. 425.)

(L. 1891, ch. 167; R. S., 8th ed. (Supp.), 3499.)

Section 1. Any twenty or more women being citizens and residents of this state and being desirous of associating themselves for the improvement of the spiritual, mental, moral and physical condition of young women by meetings for public worship, by academical instructions, by the maintenance of a public library and reading room, and by such other means not inconsistent with the objects of the association as its executive board may devise, may make, and sign and acknowledge before an officer authorized to take acknowledgments of deeds in this state, and with the written consent and approval of one of the justices of the supreme court, file in the office of the secretary of state, and in the office of the clerk of the county in which such society is to have its principal office, a certificate in writing in which shall be stated the corporate name of said association, the objects for which the association shall be formed, the place wherein its principal office shall be located, and its business carried on, the number of its directors or managers, and the names of those who shall be such managers or directors for the first year of its existence.

**[Re-enacted in § 90 of revision without change of substance.]**

§ 2. Upon filing such certificate, the persons who shall have signed and acknowledged the same and their associates and successors shall thereupon, by virtue of this act, become a body politic and corporate by the name designated in said certificate, and by that name, they and their successors shall and may have succession and be capable of suing and being sued, and they and their successors may have and use a common seal and may alter and change the same at pleasure, and by such corporate name, shall be capable of taking, receiving, purchasing and holding, by gift, grant, devise or otherwise, and of conveying, selling, leasing, mortgaging and pledging, or otherwise disposing of, any real estate or any personal property, or any part or parcel thereof, or any interest therein, for the purposes of their association, and shall have power to make a constitution and by-laws for the management of the affairs of such association not inconsistent with the constitution and laws of this state, and to alter and amend the same under such rules as may be provided therein, and to elect and appoint the other officers and agents thereof and to provide for the salaries and compensation of the same.

**[The provision that on filing certificate, the corporation is formed is in § 90 of revision. The general powers of the corporation are in Gen. Corp. L., § 11. The power to make by-laws is in § 8 of revision.]**

(Laws 1891, ch. 167; R. S., 8th ed. [Supp.], 3500.)

§ 3. The corporate powers of the said association, except as herein otherwise provided, shall be vested in an executive board or board of directors or managers, all of whom shall be active members of the association.

[Section 29 of Gen. Corp. L. provides that the directors shall have the management of corporate affairs. Section 10 of revision provides that the directors shall be elected from among the members.]

§ 4. Any young women's christian association heretofore organized under any law of this state, for all or any of the objects specified in this act, and now existing, may accept the provisions of this act by a majority vote of its executive board or board of directors or managers and of its active members, respectively, at any meeting called for the purpose; and upon filing in the office of the county clerk of the county in which is located the principal place of business of said association and in the office of the secretary of state, a certificate of such action duly acknowledged by the president and secretary of the association, said association shall thenceforth be an incorporation under and with all the powers and privileges of this act, and the property of said theretofore existing association shall be vested therein; and the persons constituting the executive board or the board of directors or managers and the officers of such prior organization shall constitute the first executive board or board of directors or managers, and the officers of the association thereby created, and the term of office of the several members of the executive board or board of directors or managers and of the officers shall continue until the expiration of the several periods for which they were respectively elected. Thereafter the executive board or board of directors or managers and officers shall be elected in such numbers and for such functions and periods and all vacancies shall be filled in such manner as shall be provided for in the constitution or by-laws of said association.

[By section 6 of revision, corporations organized under special laws may reorganize under the Membership Corporations Law See note to section 6.]

§ 5. The active members of any association created under or taking advantage of the privileges of this act may make and adopt such constitution as they may deem desirable, and may alter or amend the same under such rules as shall be prescribed therein, provided that such constitution shall be consistent with the provisions of this act and with the laws of the state of New York.

(Laws 1891, ch. 167; R. S., 8th ed. [Supp.], 3500.)

The constitution and by-laws of any association accepting the provisions of this act, as in section four provided, shall continue to be the constitution and by-laws of said association until altered, amended or repealed in accordance with the same, subject, however, in all respects to the provisions of this act.

【Section 8 of revision authorizes adoption of by-laws. The provision that the constitution and by-laws of the incorporated society become the constitution and by-laws of the corporation until altered or amended, is omitted.】

§ 6. The real estate of such association and all permanent funds acquired by it by gift, devise, bequest or otherwise, and accepted by the association for permanent investment, shall be managed and controlled by a board of trustees, not less than five in number, which number shall be determined by the constitution or by-laws of said association, and who shall, in the first instance, be elected by the executive board or board of directors or managers thereof, and who shall have power to adopt appropriate by-laws for their organization and transaction of business. Thereafter whenever a vacancy shall occur in said board of trustees the same shall be filled by a majority vote of the trustees remaining, from one or more nominations made to said board, by the executive board or board of directors or managers of said association. The said board of trustees shall securely invest and keep invested, in the name of said association, all funds which come under their control, and shall collect and receive the income from the same and the rentals from the real estate of said association, and shall sacredly devote the property of the association, of which they have the management and control, and the net income and rentals thereof, exclusively to the purposes of said association; and shall pay over to the treasurer of the association said net income and rentals so long as the same shall be devoted to the objects of the association and no longer. No conveyance, sale, lease for more than one year, mortgage, or other disposition of the real estate of said association, or of any part or parcel thereof or of any interest therein, shall be valid without a majority vote of the executive board or board of directors or managers of said association and of the board of trustees, respectively, at a meeting of each of said boards regularly called by a written notice, stating the object of said meeting and duly mailed or personally delivered to each member thereof at least three days before said meeting, nor without the written consent of three-fourths of all the members of said board of trustees.

【Section 90 of revision fixes the number of trustees at six, and § 91 gives to the trustees, instead of the directors, the control of

(Laws 1891, ch. 167; R. S., 8th ed. [Supp.], 3501.)

the real property. The number of directors is fixed by § 90 at not less than three nor more than thirty. Under § 8 of revision, directors are elected and vacancies filled as provided by the by-laws. Under §§ 11 and 91 of revision, the real property of the corporation can only be sold, etc., by order of the court, with the concurring consent of two-thirds of the trustees.】

§ 7. The said association shall possess the general powers, and be subject to the general restrictions and liabilities prescribed in chapter eighteen, part one, title three of the revised statutes.】

【Section 11 of Gen. Corp. L., prescribing general powers of corporations, applies to membership corporations.】

(L. 1891, Chap. 213; R. S., 8th ed. (Supp.) 3504.)

Section 1. Five or more persons of full age, citizens of the United States and a majority of them residents of this state, may become a corporation for the purposes of investigating, ascertaining and keeping a record of the pedigrees of any kind of domestic animals, and of instituting, maintaining, controlling and publishing a stud book, herd book or book of registry of such kind of domestic animals, in the United States of America and Canada, and of promoting and holding exhibitions of such animals, and generally for the purposes of improving the breed thereof; by making, acknowledging and filing a written certificate, stating the name by which the corporation shall be known, its particular objects and purposes, which shall be one or more of the purposes hereinbefore specified, the number of directors not less\* three nor more than twenty-one who shall manage its affairs, the time when the first annual meeting of the members of the corporation shall be held, the names and places of residence of the directors who shall manage its affairs until such first annual meeting and the town, village or city in which its principal office is or is to be located. Upon filing such certificate in the office of the secretary of state and a certified copy thereof, with the certificates of record thereof, in the office of the clerk of the county in which such principal office is or is to be located, the persons signing such certificates, their associates and successors shall become a corporation for the purposes in such certificates specified.

【Sections 30 and 31 of revision fix number of directors at not less than three nor more than thirty.】

§ 2. Such corporation may by its by-laws not inconsistent with law, define the terms and qualifications upon which entries shall be made in such book of registry, stud book or herd book, and of controlling, passing upon and admitting or rejecting all appli-

(Laws 1891, ch. 213; R. S., 8th ed. [Supp.], 3504.)

cations for the making of entries therein, for the admission, suspension and expulsion of members, for the number and election of its officers and the defining of their duties, the time and place for the election thereof, and the manner in which any vacancy in any office of the corporation shall be filled, and generally for carrying out its corporate purposes. Such corporation may, from time to time, alter, modify or change such by-laws, but not so as to be inconsistent with law.

【By-laws regulating these subjects may be adopted pursuant to Gen. Corp. L., § 11, or § 8 of revision.】

(L. 1891, ch. 344; R. S., 8th ed., Supp., vol. 3513.)

Section 1. It shall be lawful for the owner of any cemetery plot originally purchased from any cemetery association duly organized under the general laws of the state of New York, to bargain, sell, transfer or dispose of said plot; provided, however, there is no interment in said plot bargained, sold or transferred, and said bargain, sale and transfer shall be subject to the approval of the president of said cemetery association, which manage the grounds in which the said plot be situate.

§ 2. The secretary of said cemetery association shall file and record on the books belonging to said cemetery association the deed of transfer of said cemetery plot when said deed of transfer shall have been presented and approved as provided in foregoing section, on payment of a fee of twenty-five cents for service in filing and recording said deed of transfer.

§ 3. Any act or parts of an act inconsistent with this act is hereby repealed.

§ 4. This act shall take effect immediately.

【Section 1 is re-enacted without change of substance in § 49 of revision. Section 2 is not re-enacted.】

(L. 1891, ch. 382 amends L. 1847, ch. 133.)

(L. 1892, chap. 197; R. S., 8th ed., (Supp.), 3521.)

Section 1. The members of any benevolent, charitable, or hospital corporation may, at any annual or adjourned annual meeting, or at any special meeting duly called for that purpose with notice of such purpose, reduce the number of directors to not less than three, or increase the number to not more than thirty, by a vote of a majority of the members present at such meeting, and the existing directors, or a majority of them, shall make and sign a certificate in duplicate of such reduction or increase and file the same in the offices where the certificates of incorporation

(Laws 1892, ch. 197; R. S., 8th ed. [Supp.], 3521.)

were filed; and from and after such filing the number of directors shall be the number stated in such certificate. In case of a reduction all the existing directors shall serve until their term shall have expired, and there shall be no election of directors until by expiration of term the number of existing directors shall be less than the number specified in the certificate. In case of the increase of the number of directors, the places of the additional directors provided for shall be deemed vacant and shall be filled as vacancies in the office of a director may be filled. (As am. by L. 1893, ch. 180.)

【Re-enacted in § 14 of revision without change in substance.】

(L. 1892, ch. 291 amends L. 1888, ch. 490.)

(L. 1892, ch. 333; R. S., 8th ed. [Supp.], 3532.)

Section 1. Whenever there shall be a vacancy in the office of trustee of any corporation organized by or under the laws of this state for charitable or benevolent purposes, and if the same shall not be filled within six months after it shall have occurred either for want of a by-law, or other provision for filling the same, or because by reason of the absence, illness or other inability to act of one or more of the remaining trustees a quorum of the board of trustees can not be obtained, then it shall be lawful for the remaining trustees of said corporation, or a majority of them, to appoint in writing a citizen of this state, to fill such vacancy and such appointment when duly approved by a judge of the supreme court, and filed in the office of the clerk of the county in which said corporation is located, shall constitute such person a trustee of said corporation, subject to its constitution and by-laws.

【Re-enacted in § 10 of revision, but the appointment of "a citizen," is changed to the appointment of a member of the corporation. See note to that section.】

§ 2. This act shall take effect immediately.

(L. 1892, ch. 498; R. S., 8th ed. [Supp.], 3603.)

Section 1. It shall be legal for any cemetery association heretofore or hereafter formed under and in pursuance of the act, entitled "An act authorizing the incorporation of rural cemetery associations," passed April twenty-seventh, eighteen hundred and forty-seven, and the acts amending the same, to take, hold and convey for the convenient transaction of the general business of the corporation, real estate of the value of two hundred thousand dollars, within the county where their cemetery lands are situated, and in an adjoining county, adjacent thereto, provided, however,

(Laws 1892, ch. 498; R. S., 8th ed. [Supp.], 3603.)

that no portion of said real estate shall be used or occupied for the burial or other disposal in vaults or mausoleums of the dead. And, provided, further, that such real estate shall not be exempt from public taxes, rates and assessments.

§ 2. This act shall take effect immediately.

【This chapter is re-enacted, without change of substance, in § 45 of revision.】

(L. 1892, ch. 597 amends L. 1875, ch. 267.)

(L. 1893, ch. 34 amends L. 1847, ch. 133.)

(L. 1893, ch. 180 amends L. 1892, ch. 197.)

(L. 1893, ch. 465 amends L. 1875, ch. 267.)

(L. 1893, ch. 602 amends L. 1859, ch. 36.)





# ANNUAL REPORT

OF THE

SUPERINTENDENT

OF

# PUBLIC BUILDINGS

FOR THE

YEAR ENDING DECEMBER 31, 1893.

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TRANSMITTED TO THE LEGISLATURE JANUARY 13, 1894.

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ALBANY :

JAMES B. LYON, STATE PRINTER.

1894.



# STATE OF NEW YORK.

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No. 26.

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## IN SENATE,

JANUARY 13, 1894.

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### ANNUAL REPORT

OF THE

Superintendent of Public Buildings for the Year  
Ending December 31, 1893.

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ALBANY, *January 13, 1894.*

*To the Legislature:*

Pursuant to the requirements of law the trustees of the public buildings present herewith the report of the Superintendent of Public Buildings, showing the sums of money expended for the maintenance of the public buildings under their charge for the year ending December 31, 1893.

In accordance with the report of the said Superintendent of Public Buildings, they estimate that it will require for the care and maintenance of the public buildings for the fiscal year commencing October 1, 1894, the sum of \$200,000, as specifically detailed in said report.

ROSWELL P. FLOWER,  
WILLIAM F. SHEEHAN,  
WM. SULZER,

*Trustees.*



# REPORT.

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*To the Honorable the Trustees of Public Buildings :*

I have the honor to present herewith my second annual report as Superintendent of Public Buildings, which contains a detailed statement of the disbursements, in the care and maintenance of the five buildings in charge of this department, namely, the Capitol, State Hall, Geological Hall, Executive Mansion and boiler-house, from December 31, 1892, to December 31, 1893.

Also a statement of the work completed and repairs and improvements made, as directed by the Legislature; in addition to the regular care and maintenance of the buildings, and for the accomplishment of which certain special appropriations were made.

Also the unexpended balances, if any, remaining of such special appropriations.

As required by chapter 349 of the Laws of 1883, creating this department, I transmit with this report also an inventory of all the furniture, carpets, furnishings of whatever character, and all movable articles which are the property of the State, and are situated in the various departments, rooms and offices, of the public buildings under my supervision.

Since my incumbency of this office I have given my undivided attention to all the details of the care of the buildings, and have systematized the ordering of all supplies so that they come under the personal scrutiny of the Superintendent, and a rigid economy, so far as is possible in the maintenance of buildings of this character, has been practiced.

The buildings throughout are thoroughly cleaned each morning, and the main corridors, through which the travel is heaviest, are again cleaned in the afternoon, my desire being to keep the buildings in as perfect a condition as possible.

To do this requires a sufficient force, especially when coupled with the fact that a number of employes must be kept in constant readiness to attend to the wants of the different departments, and to show visitors, of whom there is at all times a large number, through the buildings.

It is, however, money well spent, as the improvement in the service and in the appearance and condition of the buildings will fully testify. Complaints have been few, and, when made, the cause has been promptly eradicated, our endeavor being to add, in every way possible, to the comfort and convenience of the occupants of these public buildings and of such of our citizens as have business to transact with the different departments.

The great improvement made a year ago in the south corridor on the second floor of the Capitol, by removing the wooden panels in the doors and resetting with glass, encouraged the Legislature to make another appropriation for continuing such work where necessary through the building. The corridors are, many of them, necessarily, through their situation, very gloomy, and the repainting in light colors has brightened them up wonderfully. The vestibules on the State and Washington avenue sides of the Capitol, the Executive chamber ante-room, and various committee rooms have been painted, and the wooden panels in the doors removed of the entire north-side corridor on the main floor, including the Public Works department, Grand Army rooms, Superintendent of Public Buildings office, Fish and Game Commission, the carpet-room, orderlies, and porters' rooms, and many committee-rooms throughout the building; also the Public Instruction and Insurance departments throughout. Of the \$3,000 appropriated for this purpose there remains an unexpended balance of sixty-nine cents.

The sum of \$500, appropriated for the repair of chairs in the Assembly chamber and rooms adjacent thereto, and for the purchase of new chairs, has been expended, except a balance of six dollars and seventy-five cents.

In accordance with this appropriation, the chairs in the Senate, Assembly and Executive chamber have been given a thorough repairing, and twenty-five new revolving cane-seat chairs bought for use in the Assembly chamber.

The appropriation of \$7,680 made for the purchase of electrical apparatus to complete switch-board, for pulleys, shafting and machinery, in new shop, for paving the court-yard of the boiler-house, and for excavating, altering and resetting scales in the coal sheds has been expended, except a balance of fifteen dollars and fifteen cents.

The provisions of this appropriation have been carried out. The court-yard has been repaired, the work of excavating, altering and resetting the scales for weighing coal has been done, pipe cutting and threading machines, planers, band saws, pulleys, shafting, steam pipe and other matters, as provided in the appropriation have been purchased. Switches, rheostats, meters and other apparatus pertaining to the electrical department have been added, as more fully detailed in the chief engineer's report, and we have now in the basement of the Capitol what is conceded to be one of the most complete and well equipped electric-light plants in the country, and one of which the citizens of this State may well be proud.

In this connection permit me to refer to the great improvement made by the removal from the Capitol basement of the shops which were previously located there, to the new quarters prepared for them in the building adjoining the boiler-house, a substantial structure which was completed early the past year. The shops, with their foul odors, and necessary din, had become an intolerable nuisance, but by their removal this has been abated, and as the new building is fitted up with all improved appliances, their usefulness has been greatly increased.

The cellar has been cleaned, all dirt and rubbish removed and the walls whitened, and now presents a wholesome appearance.

The sum of \$3,500, set aside for repairs and plumbing generally throughout the buildings, has been expended, with the exception of a balance of \$131.25.

The plumbing in the various buildings and departments has been given a thorough repairing and is now in good condition.

The appropriation of \$10,000 for carpets and furnishings for the various rooms and offices where necessary, throughout the buildings, and also for cleansing and renovating those already in use has been exhausted, except the sum of \$1,990.45.

The seven rooms of the Executive chamber suite, the main room of the Insurance department, rooms in the Public Instruction department, in the Comptroller's department and at the Executive Mansion have been newly carpeted.

The carpets taken up were thoroughly repaired and relaid in other rooms, such as the Railroad Commission, Public Works department, and many of the committee rooms. Generally throughout the buildings the carpets were taken up, repaired and cleaned and relaid, and curtains and shades supplied to the various rooms and offices where necessary, a large part of the force being employed at this work during the summer.

After duly advertising, as required by law, the contract, for the year's supply of coal was let to C. M. Stuart, he being the lowest bidder, for the lump sum of \$14,413, or three dollars and fifty-five cents per ton.

In contracting for the ice, for sprinkling the streets, and for all supplies to any amount, it has been my invariable practice to get proposals for furnishing the same and award the contract to the lowest bidder.

During the year just past I have turned over to Comptroller Campbell, \$700, which had accumulated, from time to time, in this office, by the sale of old carpets, old iron castings, old brass, etc.

In conclusion, I desire to respectfully call your attention to the fact that the affairs of this office have been so conducted, that all bills and claims against the department have been promptly paid each month as they became due, and still a small balance remained to our credit when entering upon the new appropriation, October 1, 1893.

Never in the history of this department has this result been accomplished previous to the last two years.

It seems to have been a fact, that in previous years the appropriation made was not sufficient to meet the essential expenses of the department, the result being that in order not to exceed the appropriation upon which they were then running, payment of the last five or six months accounts was delayed until the new appropriation became available, that delay, of course, being a

great inconvenience, and positive loss to persons having bills against the department.

Then, too, these accumulated accounts being all paid from the new appropriation just available, in turn created a deficiency there.

Upon assuming the superintendency of this department, with a desire to avoid a like experience, I asked the Legislature for an appropriation which would enable me to make good such deficiency and start clear, guaranteeing then that all bills would be promptly paid as they became due and no deficiency created. This promise has been absolutely lived up to each year since.

I submit herewith the report of the chief engineer, and also a copy of a letter received by this department at the time of the University Convocation.

I estimate that it will require for care and maintenance of the public buildings for the fiscal year commencing October 1, 1894, the sum of \$200,000, itemized as follows:

Pay-roll of employes .....	\$140,000
Fuel .....	18,000
Gas and electric lighting .....	16,000
Water .....	4,000
General merchandise .....	10,000
Repairs .....	12,000
<hr/>	
Total .....	\$200,000
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All of which is respectfully submitted,

M. DELEHANTY,  
*Superintendent of Public Buildings.*

ALBANY, *January 13, 1894.*

REGENTS' OFFICE,  
ALBANY, N. Y., *July 10, 1893.* }

*Superintendent of Public Buildings, Albany, N. Y.:*

Dear Sir.—At the closing session of the University Convocation of the State of New York, on Friday, July seventh, the secretary stated that more than any previous year the convocation had

been indebted to the pains-taking courtesy of the Superintendent of Public Buildings in making the session so agreeable, by providing in many ways for the comfort of the members. The admirable condition of the rooms, and the polite attention of orderlies and attendants assigned to duty in connection with the convocation, had been noticed by all. It was thereupon unanimously voted that the convocation extend its thanks to Superintendent Delehanty for the efficiency and courtesy of his department.

Very truly yours,

MELVIL DEWEY,

*Secretary.*

# REPORT OF THE ENGINEER.

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ENGINEER'S DEPARTMENT,  
STATE CAPITOL, *January 12, 1894.* }

TO HON. MICHAEL DELEHANTY, *Superintendent of Public Buildings:*

Sir.—I respectfully submit my report for 1893. First.—The new building for shop purposes has been fitted in suitable shape, in all its departments, for work to be done in each shop.

In the carpenters' shop has been placed one planing machine, one band-saw, one dado machine, grinding stone, etc. There has also been placed in this shop one twenty-five horse power engine to furnish power for building. In the steamfitting and blacksmith shop, one Saunder's pipe cutting and threading machine, one forge, anvil, and blacksmith tools complete.

There has been placed about seventy feet, two and seven-sixteenth inch shafting, counter-shafting and pulleys, giving us a well-equipped shop, and suitable for the purposes intended, which fills a long felt want in this department.

We have done some extra work, as per instructions from you, that was not anticipated in last year's appropriation. The placing of steam-heating apparatus in the building, also the change from the original plan in regard to entrance to departments on second floor. The first plan was an inside staircase from first floor to second, and a corridor or hallway running through building lengthwise. This was found to take up too much shop-room. There has been built a platform, running the entire length of shop, in rear of second floor, made of Georgia pine flooring, supported with iron girders, with iron railing on same, and approached by staircase from court-yard to same. This is a decided improvement, giving us one-fourth more room on second floor and an entrance to each separate shop on second floor.

The boiler plant is in first class condition; better than ever before, with a surplus of boiler capacity. The new boilers have been under steam for over four months and show no defects.

The heating apparatus has been put in good condition. The cost of maintenance for the last year has been somewhat larger than usual, but this can be accounted for when we take into consideration that the greater part of heating apparatus has been in use for the past fifteen years.

The appropriation for covering steam-pipes with a non-conducting material has been exceeded by about \$300. This was owing to covering being destroyed during repairs, and work found necessary to do not included in estimate.

I would recommend an additional engine to be placed opposite present large engine and connected on main shafting, for the reason that our present engine is now worked to its full capacity, and in case of its being disabled we would be without means to run our entire electric plant. I would recommend a compound engine, which would be more economical than present engine; also that a new fly-wheel be placed on old engine, of sufficient weight for the regulation of the same. I will submit a special report on this subject giving details and motives for the above recommendations.

The electric plant is in good condition, with the exception of the six old Weston dynamos. The insulation on same is very defective owing to age, wear, etc. These dynamos have been in use for the past nine years. When put in they were of the most approved make, but at the present time are out of date. The insulation used in making was muslin and shellac. This insulates the field wire from the iron core of field magnets. The insulation has become hard and dry, and the constant contraction and expansion of wire over same has ground insulation into powder, bringing wire into contact with iron and grounding same. I find on testing for grounds that about all the fields of old dynamos are more or less grounded, and it is only a matter of time when they will burn out.

We have rewound one (1) field and sent two (2) armatures to factory to be rewound, with the prospect of sending another soon.

I attribute the burning out of the above to short circuits caused by defective insulation on fields.

I have requested the Westinghouse Electric Company, now owning the Weston patents, to submit to you a proposition for the cost of rewinding and compounding old dynamos; also cost of four (4) of their improved dynamos and of a capacity of one thousand sixteen-candle power 110 volt lamps. I do not think it would be advisable to rewind old dynamos; the cost would be about \$3,000, and then we would not have first-class machines, for the reason that the iron field magnets are not of the proper shape or weight, as compared to the modern dynamo; the compound dynamo being put on the market now by all first-class builders. It gives better regulation, which means longer life for the lamps. The old dynamos are what is termed shunt wound, and are not suitable for variable loads.

The new switch-board has been improved by six (6) Weston ampere meters, and six (6) rheostats, and volt meters; also a system of connecting plugs so that any dynamo can be connected on any circuit desired almost immediately.

The elevator pumps and elevators have been put in good condition. All old and defective cables have been taken out and new ones substituted.

The machinery generally is in good condition.

Yours very respectfully,

WILLIAM C. NORWOOD,

*Chief Engineer.*

## RECEIPTS AND EXPENDITURES.

### Receipts.

Received of the Treasurer of the State at sundry times during the year, in payment of accounts audited by the Superintendent and approved by the trustees of public buildings ..... \$206,811 39

### Expenditures.

1893.

Jan.	14. Pay-roll (two weeks), Superintendent and employes .....	\$6,290 81
	31. Pay-roll (two weeks), Superintendent and employes .....	7,522 41
Feb.	9. Albany Dry Goods Company, towels, felt, soap, etc .....	\$56 61
	Albany Perforated Wrapping Paper Company, toilet paper, .....	108 00
	Albany Hardware and Iron Company, hardware .....	13 00
	American Soap and Washoline Company, cleaning compound .....	18 54
	A. A. Griffing Iron Company, steam radiators .....	115 20
	Boyle & Murphy, gas fixtures, globes, etc .....	28 55
	Delehanty's Son, M., repairs, plumbing, etc .....	285 70
	Dowling, John J., laundrying towels .....	27 81

1893.

Feb.	9. Douw H. Fonda Drug Com- pany, sundry painters' sup- plies .....	\$29 50
	Ferris, John, Jr., dusters, brooms, scrub-brushes, etc.,	74 65
	General Electric Company, incandescent lamps .....	243 80
	Hussey, Wm. M., soap, brooms, salt, etc .....	59 88 .
	Hudson River Telephone Com- pany, rental telephones....	30 84
	LaRose Manufacturing Com- pany, lumber .....	174 66
	Mann, Waldman & Co., clean- ing-cloths .....	25 60
	Mather Bros., spittoons .....	15 25
	Mayell, Henry, & Son, elevator tubing, rubber packing, etc.,	32 87
	Murphey & Liscomb, cylinder oil .....	31 80
	Robinson Electrical Works, electrical apparatus .....	47 25
	Schifferdecker Bros., ice .....	46 81
	Schilling, F., labor, fitting and setting marble .....	32 50
	Shepard, F. A., steam-fittings,	71 08
	Shevlin, Patrick, castings, riv- ets, etc .....	18 99
	Smith & Lape, cleaning car- pets .....	11 85
	Stuart, C. M., fuel .....	41 25
	Sullivan & Ehlers, repairs, castings, etc .....	89 35
	TenEyck, Clinton, soft soap..	3 50

1893.

Feb.	9. Van Heusen, Charles & Co., sundry lanterns, globes, chimneys, shades, etc . . . . .	\$17 35	
	Walsh, Edmund A., carpenter work, repairing and alter- ing rooms . . . . .	1,138 08	
	Ward, C. M., agent, hardware,	41 04	
	Westinghouse Electric and Manufacturing Company, carbons, globes, etc . . . . .	24 76	
	Whitney, W. M. & Co., small tacks and nails . . . . .	3 70	
	Wing, R. B. & Son, ensign, mops, calking-cotton, waste and sundry merchandise . . . . .	164 74	
			<hr/> \$3,124 51
	15. Pay-roll (two weeks), Superintendent and employes . . . . .		7,281 74
	28. Pay-roll (two weeks), Superintendent and employes . . . . .		7,538 54
Mar.	9. Albany City Water-Works, water tax . . . . .	\$115 00	
	Albany Dry Goods Company, cheese cloth . . . . .	8 20	
	Albany Hardware and Iron Company, hardware . . . . .	3 69	
	Bowes, M., & Co., lubricating oil . . . . .	58 90	
	Delehanty's Son, M., repairs, plumbing, etc . . . . .	56 05	
	Dowling, John J., laundrying towels . . . . .	26 73	
	Dyer, Bradbury, cartage of ashes, etc . . . . .	114 20	
	Douw H. Fonda Drug Com- pany, painters' supplies . . . . .	24 22	

1893.

Feb.	9. Fasoldt, Otto H., clock.....	\$25 00	
	Ferris, John, Jr., dusters, etc.,	21 63	
	Hudson River Telephone Com- pany, rental telephones ...	31 43	
	Hussey, Wm. M., sapolio, soap and salt .....	42 50	
	Lynch, Thomas, scraping walks, removing ashes, etc.,	164 90	
	McEwan, William, fuel .....	5,505 48	
	Municipal Gas Company, gas,	4,583 60	
	Robacher's Disinfectant Com- pany, disinfectant .....	93 75	
	Schifferdecker Bros., ice.....	38 25	
	Shepard, F. A., fittings.....	16 11	
	Shevlin, Patrick, castings, rivets, etc .....	20 88	
	Smith & Lape, cleaning carpets .....	30 04	
	Stuart, C. M., fuel.....	5 25	
	Sullivan & Ehlers, repairs, castings, etc .....	11 46	
	Van Heusen, Charles & Co., filters and coolers, tumblers, cuspadores, etc .....	60 60	
	Ward, C. M., agent, hardware,	52 89	
	Wing, R. B., & Son, gasoline, oil, candles, snow shovels, etc .....	32 85	
	Whitney, W. M., & Co., sundries .....	40 03	
			\$11,183 64
Mar.	16. Pay-roll (two weeks), Superintendent and employes .....		7,271 30
	31. Pay-roll (two weeks), Superintendent and employes .....		7,776 87

1893.

April 13.	Albany Dry Goods Company, sundries .....	\$37 70
	Albany Hardware and Iron Company, hardware .....	10 30.
	Albany Perforated Wrapping Paper Company, toilet paper,	9 00
	American Soap and Washoline Company, cleaning com- pound .....	19 80
	Burke, George, metal polish..	12 00
	B. W. Wooster Furniture Com- pany, chairs .....	36 00
	Davidson, M. T., repairs to elevator pumps .....	31 35
	Delehanty, M., Superintendent, cash paid freight cartage, expressage and sundry petty accounts .....	338 61
	Dowling, John J., laundering towels .....	27 24
	Douw H. Fonda Drug Com- pany, painters' supplies....	16 54
	Delehanty's Son, M., repairs, plumbing, etc .....	1,196 90
	Ferris, John, Jr., brooms, whisk brushes, dusters, etc.,	47 00
	Howell, T. P., & Co., leather,	12 97
	Hussey, Wm. M., laundry soap,	13 20
	Hudson River Telephone Com- pany, rental telephones....	31 63
	Lancaster Carbon Company, coated carbons .....	54 00
	LaRose Manufacturing Com- pany, lumber .....	28 69
	Leavy, C. F., lubricating oil,	38 50

1893.

April 13.	Lynch, Thomas, brick, sand, cement, removing ashes, etc.,	\$62 60	
	R. H. Moore & Zimmerman, lumber .....	12 75	
	Robinson Electrical Works, electrical apparatus .....	24 99	
	Scherer, R. G., assignee Sulli- van & Ehlers, repairs, cast- ings, etc .....	113 76	
	Schifferdecker Bros., ice .....	60 62	
	Stuart, C. M., fuel .....	40 50	
	The Van Heusen-Charles Com- pany, slop jar and tumblers,	3 25	
	Ten Eyck, Clinton, soft soap,	3 50	
	Ward, C. M., agent, hardware,	35 14	
	Westinghouse Electric and Manufacturing Company, repairs to electrical machines .....	162 34	
	Wing, R. B., & Son, sundry merchandise .....	25 02	
		<hr/>	\$2,505 90
15.	Pay-roll (two weeks), Superin- tendent and employes .....		7,302 43
30.	Pay-roll (two weeks), Superin- tendent and employes .....		7,229 00
May 9.	Albany Dry Goods Company, cheese cloth and soap ....	\$19 38	
	Albany Hardware and Iron Company, hardware .....	8 59	
	Ammenheuser, H., flower pots .....	7 85	
	Delahanty's Son, M., repairs, plumbing, etc. ....	84 24	
	Douw H. Fonda Drug Com- pany, painters' supplies ..	23 68	

1893.

May	9. Dowling, John J., laundrying towels .....	\$23 45
	Fairbanks Company, The, steam fitters' supplies, pipe hangers, shafting, etc ....	112 35
	Ferris, John, Jr., scrub brushes and dusters .....	25 90
	Hussey, Wm. M., sapolio and laundry soap .....	14 20
	Hudson River Telephone Company, rental tele- phones, .....	31 93
	La Rose Manufacturing Com- pany, lumber .....	77 20
	Leavy, C. F., lubricating oil,	35 10
	Lynch, Thomas, cartage of ashes, etc .....	68 80
	McCarty, Thomas, brick ..	73 00
	McEwan, William, fuel, ...	1,374 01
	Robinson Electrical Works, electrical apparatus .....	6 15
	Schifferdecker Bros., ice ....	34 92
	Scherer, R. G., assignee Sulli- van & Ehlers, repairs, castings, etc.....	36 25
	Shepard, Frank A., steam- fitters' supplies .....	46 38
	Smith & Lape, cleaning car- pets .....	9 48
	Smith, Josiah, phenyle disin- fectant .....	62 50
	Stuart, C. M., fuel .....	1,479 95
	Ten Eyck, Clinton, soft soap,	3 50
	Wing, R. B., & Son, merchan- dise .....	55 78
	Ward, C. M., agent, hardware,	26 24

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 \$3,740 83

1893.

May	16.	Pay-roll (two weeks), Superintendent and employees .....	\$5,994 15
	31.	Pay-roll (two weeks). Superintendent and employees .....	5,060 80
June	13.	Albany City Water-Works, water .....	\$1,028 62
		Albany Dry Goods Company, sundry furnishings .....	39 88
		Albany Hardware and Iron Company, hardware .....	10 93
		Albany Perforated Wrapping Paper Company, toilet paper .....	18 00
		American Water Purifying Company, still and conden- ser .....	25 00
		Dowling, John J., laundrying towels .....	23 61
		Ferris, John, Jr., dusters and whitewash brushes .....	15 50
		Hudson River Telephone Company, rental tele- phones .....	31 38
		Hussey, William M., brooms, sapolio and soap .....	61 25
		Jerome Paper Company, toilet paper .....	18 00
		La Rose Manufacturing Com- pany, lumber .....	24 74
		Lamboy, A. J., mops .....	17 25
		Lynch, Thomas, cartage of ashes, etc. ....	17 80
		Municipal Gas Company, gas,	3,659 20
		Moore, James C., brick.....	6 00
		Schifferdecker Bros., ice.....	45 12
		Shepard, F. A., steamfitters' supplies .....	15 58

1893.

June	13.	Scherer, R. G., assignee Sullivan & Ehlers, repairs, castings, etc .....	\$44 65	
		Shevlin, Patrick, sundries...	23 93	
		Stuart, C. M., fuel .....	1,053 21	
		Ten Eyck, Clinton, soft soap..	3 50	
		Ward, C. M., agent, hardware,	19 73	
		Wing, R. B., & Son, sundry merchandise .....	17 82	
				\$6,220 70
	16.	Pay-roll (two weeks), Superintendent and employes .....		4,547 61
	30.	Pay-roll (two weeks), Superintendent and employes .....		4,990 85
July	7.	Albany Hardware and Iron Company, hardware.....	\$10 58	
		Albany Perforated Wrapping Paper Company, toilet paper,	12 00	
		American Soap and Washoline Company, cleaning compound .....	18 60	
		Dowling, John J., laundering towels .....	25 68	
		Ferris, John, Jr., floor brooms, dusters and brushes .....	53 35	
		Hussey, Wm. M., deck brooms and laundry soap .....	16 58	
		Hudson River Telephone Company, rental telephones ....	31 43	
		Schifferdecker Bros., ice ....	54 21	
		Stuart, C. M., fuel .....	1,889 15	
		The Dreher Manufacturing Company, lubricating oil...	54 59	
		Wing, R. B., & Son, rubber packing, manilla rope, mops, etc .....	62 34	
		Ward, C. M., agent, hardware,	16 78	
				2,245 29

1893.

<b>July</b>	15. Pay-roll (two weeks), Superintendent and employes .....	\$4,542 19
	25. Stuart, C. M., fuel .....	8,135 53
	31. Pay-roll (two weeks), Superintendent and employes .....	4,723 82
<b>Aug.</b>	8. Albany Electric Illuminating Company, repairing electric wires .....	\$23 80
	Albany Hardware and Iron Company, hardware .....	7 33
	Albany Perforated Wrapping Paper Company, toilet paper, .....	12 00
	Dowling, John J., laundering towels .....	22 89
	Hudson River Telephone Company, rental telephones....	31 58
	Hussey, Wm. M., sapolio, soap, mop-handles, etc .....	24 70
	Lynch, Thomas, gravel, cartage of ashes, etc .....	221 80
	Mann, Waldman & Co., cleaning cloths .....	21 80
	Price & Reed, flower seeds, baskets, hoe, etc .....	9 40
	Schifferdecker Bros., ice ....	63 72
	Shevlin, Patrick, sundry repairs .....	11 02
	Ten Eyck, Clinton, soft soap..	3 50
	Van Antwerp, D. L., blank books, etc .....	27 50
	Ward, C. M., agent, hardware, .....	14 54
	Wing, R. B., & Son, packing, washers, waste, etc .....	48 92
		<hr/> 544 50
	16. Pay-roll (two weeks), Superintendent and employes .....	4,377 21
	31. Pay-roll (two weeks), Superintendent and employes .....	5,603 25

1893.

Sept.	1. Albany Brass Foundry and Manufacturing Company, The, repairs, castings, etc..	\$86 47
	Albany Hardware and Iron Company, hardware . . . . .	15 04
	Albany Perforated Wrapping Paper Company, toilet paper,	36 00
	American Soap and Washo- line Company, cleaning com- pound . . . . .	15 00
	Delehanty's Son, M., repairs, plumbing, etc . . . . .	291 68
	Douw H. Fonda Drug Com- pany, painters' supplies . . .	43 73
	Dowling, John J., laundering towels . . . . .	23 08
	Dumary, Henry, asphalt pave- ment, relaying granite, etc.,	650 00
	Ferris, John, Jr., turkey dusters . . . . .	6 50
	Hudson River Telephone Company, rental tele- phones . . . . .	31 03
	Hussey, Wm. M., toilet soap and brooms . . . . .	20 25
	Lynch, Thomas, cartage of ashes, etc . . . . .	44 00
	Newton & Co., fire brick, kaoline and fire sand . . . .	40 25
	Otis Bros. & Co., elevator repairs . . . . .	56 46
	Scherer, R. G., assignee Sul- livan & Ehlers, repairs, castings, etc . . . . .	13 50
	Schifferdecker Bros., ice . . . .	76 41

1893.

Sept.	1. Stuart, C. M., fuel .....	\$31 65	
	Ward, C. M., agent, hardware,	21 34	
	Wing, R. B., & Son, sundry		
	merchandise .....	63 78	
			<hr/>
			\$1,566 17
	15. Pay-roll (two weeks), Superintendent and employes .....		5,319 68
	30. Pay-roll (two weeks), Superintendent and employes .....		6,552 88
Oct.	10. Albany Brass Foundry and Manufacturing Company, repairs, castings, etc ....	\$95 58	
	Albany Hardware and Iron Company, hardware .....	11 20	
	Albany Perforated Wrapping Paper Company, toilet paper and fixtures .....	31 20	
	Albany Steam Trap Company, valves .....	5 40	
	Delehanty's Son, M., repairs, plumbing, etc .....	93 83	
	Dowling, John J., laundering towels .....	19 95	
	Douw H. Fonda Drug Com- pany, painters' supplies ..	90 56	
	Delehanty, M., Superintendent, cash paid sundry petty accounts, freight, express- age, cartage, etc .....	827 88	
	Ferris, John, Jr., whisk brooms .....	7 00	
	Fitzgerald Bros., repairs, brass castings, etc .....	31 77	
	Hussey, Wm. M., brooms, matches, soap, sapolio, etc.,	51 75	

1893.

Oct. 10.	Hudson River Telephone Com- pany, rental telephone . . . . .	\$31 98
	Harrigan, John, painting. decorating, etc . . . . .	650 90
	La Rose Manufacturing Com- pany, lumber . . . . .	83 51
	Lord & Taylor, laundrying lace curtains . . . . .	12 75
	Lynch, Thomas, cartage of ashes, sand, etc . . . . .	33 60
	Moore & Zimmerman, lumber, Murphey & Liscomb, lubricat- ing oil . . . . .	38 25 30 60
	Municipal Gas Company, gas, Newton & Co., kaoline and and fire sand . . . . .	2,742 20 5 25
	Robinson Electrical Works, electrical apparatus . . . . .	20 28
	Schifferdecker Bros., ice . . . .	61 95
	Shepard, Frank A., steam fit- ters' supplies . . . . .	19 66
	Shevlin, Patrick, repairs to boiler, etc . . . . .	65 45
	Stuart, C. M., fuel . . . . .	18 75
	The Fairbanks Company, steamfitters' supplies, valves, gauges, pipes, etc . . . . .	55 94
	The Townsend Furnace, sun- dry repairs, castings and shop supplies . . . . .	138 15
	Ward, C. M., agent, hardware,	18 79
	Wing, R. B., & Son, American ensign, rubber packing. mops, etc . . . . .	123 95

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 \$5,418 08

1893.

Oct.	16.	Pay-roll (two weeks), Superintendent and employes .....	\$6,424 83
	31.	Pay-roll (two weeks), Superintendent and employes .....	7,012 45
Nov.	16.	Pay-roll (two weeks), Superintendent and employes .....	6,588 98
	23.	Albany Brass and Iron Company, repairs, castings, etc.,	\$89 81
		Albany Hardware and Iron Company, hardware .....	23 15
		Albany Perforated Wrapping Paper Company, toilet paper,	48 00
		Baker, S. T., & Co., lubricating oil .....	18 73
		Boyle & Murphy, couplings, brackets, shades, etc .....	19 71
		Davenport, S. J., sprinkling streets .....	500 00
		Davidson, M. T., repairs to elevator pumps .....	68 00
		Delehanty, M., Superintendent, cash paid freight, expressage, cartage and sundry petty accounts .....	215 65
		DeyErmand & Co., Wm., asphaltum varnish .....	6 25
		Douw H. Fonda Drug Company, painters' supplies ...	31 62
		Dowling John J., laundering towels .....	23 66
		Farran, B., lumber .....	141 85
		Ferris, John, Jr., turkey dusters, floor brooms, scrubs, etc.,	51 65
		Howell, T. P., & Co., leather..	21 64
		Hudson River Telephone Company, rental, telephones...	34 48

1893.

Nov. 23.	Hulsebosch Bros., plants, bulbs, etc .....	\$47 50
	Hussey, Wm. M., toilet soap, candles, matches, sapolio, etc .....	55 90
	LaRose Manufacturing Com- pany, lumber .....	57 98
	Lanahan, John, repaving side- walks .....	14 00
	Lynch, Thomas, cartage of ashes, etc .....	43 90
	Marschall, Charles, sundry fur- nishings .....	94 60
	Murphy, Mary Margaret, ad- ministratrix, laying curb, paving, repairing walks, etc.,	350 81
	Newton & Co., fire-brick.....	25 50
	Pennie, John, large cedar gar- den tubs .....	25 00
	Riley Bros., covering steam pipes, etc .....	242 56
	Robinson Electrical Works, electrical apparatus .....	11 25
	Schifferdecker Bros., ice .....	55 77
	Shevlin, Patrick, repairs to boiler, etc .....	42 22
	Stern Bros., furnishings .....	25 75
	Stuart, C. M., fuel .....	9 00
	The Dreher Manufacturing Company, lubricating oil...	32 26
	Ten Eyck, Clinton, soft soap..	3 50
	The Troy Belting and Supply Company, repairing belts, shafting compound, etc ...	54 90
	The Townsend Furnace, re- pairs .....	1 25

1893.

Nov.	23.	Ward, C. M., agent, hardware,	\$48 90	
		Westinghouse Electric and Manufacturing Company, electric commutator .....	30 00	
		Wing, R. B., & Son, illuminat- ing oil, rubber packing, waste, etc .....	33 12	
				<hr/>
				\$2,599 87
	30.	Pay-roll (two weeks), Superintendent and employes .....		6,886 12
Dec.	2.	Stuart, C. M., fuel .....		2,552 33
		Albany Brass Foundry Com- pany, repairs, castings, etc.,	\$9 90	
		Albany City Water-Works, water .....	721 35	
		Albany Hardware and Iron Company, hardware .....	6 45	
		American Soap and Washo- line Company, cleaning com- pound .....	34 26	
		Boyle & Murphy, argand burn- ers, holders, etc .....	14 10	
		Delehanty's Son, M., repairs, plumbing, etc .....	801 85	
		Douw H. Fonda Drug Com- pany, painters' supplies ...	32 62	
		Dowling, John J., laundering towels .....	19 36	
		Ferris, John, Jr., turkey dusters .....	13 00	
		Hudson River Telephone Com- pany, rental telephones....	31 48	
		Hussey, Wm. M., brooms, can- dles, matches, soap, etc....	58 50	
		La Rose Manufacturing Com- pany, lumber .....	69 68	

1893.

Dec.	9. Lynch, Thomas, cartage of ashes .....	\$45 60	
	Mayell, Henry, & Son, rubber packing, gas tubing, etc...	87 13	
	Price & Reed, plants .....	18 00	
	R. H. Moore & Zimmerman, lumber .....	13 74	
	Saul, Julius, uniform.....	10 35	
	Shepard, Frank A., steam fit- ters' supplies .....	25 57	
	Schifferdecker Bros., ice .....	56 73	
	Sweeney, P. J., steam fitters' supplies .....	37 47	
	The Dreher Manufacturing Company, lubricating oil...	31 46	
	The E. G. Bernard Company, incandescent lamps .....	117 70	
	The F. P. Little Electrical Construction and Supply Company, electrical brushes,	30 00	
	Ward, C. M., agent, hardware,	59 83	
	Whitney, W. M., & Co., sundry furnishings .....	134 66	
	Wing, R. B., & Son, caulking cotton, illuminating oil, mops, etc .....	42 80	
			\$2,523 59
	15. Pay-roll (two weeks), Superintendent and employees .....		6,133 08
	23. Pay-roll (two weeks), Superintendent and employees .....		6,331 85

1894.

Jan.	9. Albany Brass Foundry and Manufacturing Company, re- pairs, castings, etc .....	\$60 27	
	Albany Hardware and Iron Company, hardware .....	9 80	

1894.

Jan.	9. Albany Perforated Wrapping Paper Company, toilet paper .....	\$64 50
	Borne, Scrymser & Co., lubri- cating oil .....	85 50
	Boyle & Murphy, sundries ...	2 25
	Bunnell, J. H., & Co., elec- trical supplies .....	53 57
	Delehanty, M., Superintendent, cash paid expressage, freight, cartage and sundry petty accounts .....	172 22
	DeyErmand & Co., painters' supplies .....	2 25
	Dowling, John J., laundering towels .....	18 77
	Ferris, John, Jr., brooms, dust- ers and kalsomine brushes,	23 96
	Fitzgerald Bros., sundry repairs, brass castings, etc.,	34 13
	Hudson River Telephone Com- pany, rental telephones ...	31 58
	Hussey, Wm. M., soap, salt, etc .....	55 75
	Lynch, Thomas, cartage of ashes .....	97 40
	McDonnell, J. M., rubber mats,	197 63
	Mann, Waldman & Co., cleaning cloths .....	50 00
	Municipal Gas Company, gas,	3,664 20
	R. H. Moore & Zimmerman, lumber .....	5 12
	Schifferdecker Bros., ice.....	21 42
	Shepard, Frank A., steam- fitters' supplies .....	15 19
	Shevlin, Patrick, sundry repairs .....	26 74

1894.

Jan.	9. Smith, Josiah, phenyle disinfectant .....	\$6 00	
	Stuart, C. M., fuel .....	79 17	
	Ten Eyck, Clinton, soap.....	7 00	
	The Fairbanks Co., machinist and steamfitters' supplies..	19 33	
	The Mitchell Vance Co., glass for chandelier .....	11 25	
	The F. P. Little Electrical Construction and Supply Company, varnish .....	7 00	
	The Townsend Furnace, sundries .....	3 02	
	The Van Heusen-Charles Co., sundry furnishings .....	174 25	
	Ward, C. M., agent, hardware,	31 77	
	Wing, R. B., & Son, sundry merchandise .....	28 70	
	Wasson & Co., repairing courtyard, cement, sheathing, etc.,	87 86	
			\$5,147 60
			<u>\$206,811 39</u>

## Summary.

*Receipts.*

Amount from State Treasurer .....	\$206,811 39
Stock on hand in store-room January 1, 1893.....	256 51
	<u>\$207,067 90</u>

*Expenditures.*

Capitol maintenance .....	\$185,072 95
State Hall maintenance .....	11,665 04
Geological Hall maintenance .....	3,910 89
Executive Mansion maintenance .....	6,073 83
Stock on hand in store-room January 1, 1894.....	345 19
	<u>\$207,067 90</u>

# STATE OF NEW YORK.

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No. 27.

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## IN SENATE,

JANUARY 29, 1894.

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### RESOLUTION

OFFERED BY

MR. LEXOW TO INVESTIGATE THE POLICE DEPARTMENT OF THE CITY OF NEW YORK.

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WHEREAS, It has been charged and maintained that the police department of the city of New York is corrupt; that grave abuses exist in said department; that in said city the laws for the suppression of crime, and the municipal ordinances and regulations duly enacted for the peace, security, order, and police of said city, are not strictly enforced by said department and by the police force acting thereunder; that said laws and ordinances when enforced are enforced by said department and said police force with partiality and favoritism, and that such partiality and favoritism are the result of corrupt bargains between offenders against said laws or ordinances on the one hand and said department and police force on the other; that money and promises of service to

be rendered are given and paid to public officials by the keepers or proprietors of gaming-houses, disorderly-houses or liquor saloons, or others, who have offended or are offending against said laws or ordinances, in exchange for promises of immunity from punishment or police interference; and that said department and said police force, by means of threats and otherwise, extort money or other valuable consideration from many persons in said city as the price of such immunity from police interference or punishment from real or supposed violations of said laws and ordinances; and

WHEREAS, A strong public sentiment demands of this Senate an investigation of all the matters above mentioned for the purpose of remedying and preventing such abuses by proper legislation; now, therefore, be it

*Resolved*, That the president pro tempore of the Senate be and he hereby is authorized to appoint seven Senators who shall be a special committee of this Senate, and one of whom shall be the president pro tempore, with power and authority to investigate all and singular the aforesaid matters and charges, and that said committee have full power to prosecute its inquiries in any and every direction in its judgment necessary and proper to enable it to obtain and report the information required by this resolution; that said committee report to the Senate, with such recommendations as in its judgment the public interests require; said committee is given authority to send for persons and papers, to employ a stenographer, and such counsel and other assistants as it may deem necessary, and to hold sessions in the cities of New York and Albany. The committee shall conclude its investigation in time to report to the Senate on or before February 20, 1894, to the end that proper legislation may be enacted to suppress said evils. The Ser-

geant-at-Arms of the Senate shall attend such committee and serve all subpoenas issued thereby and perform all duties as Sergeant-at-Arms of such committee; and be it further

*Resolved,* That it is the sense of this Senate that it is contrary to public policy and to the interests of good order that any person giving evidence before said committee tending to show that he has been a party to the practices above mentioned, should be indicted or prosecuted upon evidence so given or admissions so made by him.



PROCEEDINGS AND TESTIMONY

BEFORE THE

SENATE JUDICIARY COMMITTEE

IN THE

INVESTIGATION OF THE CHARGES OF BRIBERY OF MEMBERS OF THE  
LEGISLATURE IN BOTH SENATE AND ASSEMBLY TO IN-  
FLUENCE THEIR ACTION ON AMENDMENTS  
TO THE BUFFALO CHARTER.

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TRANSMITTED TO THE LEGISLATURE MARCH 12, 1894.

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ALBANY:  
JAMES B. LYON, STATE PRINTER.  
1894.



# STATE OF NEW YORK.

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No. 28.

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## IN SENATE,

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MARCH 12, 1894.

### PROCEEDINGS AND TESTIMONY

IN THE

MATTER OF THE INVESTIGATION OF THE SENATE  
JUDICIARY COMMITTEE OF THE CHARGES OF BRIB-  
ERY OF MEMBERS OF THE LEGISLATURE IN BOTH  
SENATE AND ASSEMBLY, TO INFLUENCE THEIR  
ACTION ON AMENDMENTS TO THE BUFFALO  
CHARTER.

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Hearing, *February* 15, 1894.

Present : Senator O'Connor, Chairman, and Senators Saxton, Pound,  
Lexow and McMahon.

Simon Seibert, being duly sworn as a witness in the above entitled  
matter, testified as follows :

By Mr. Seibert :

I wish to say that I do not recognize the right of this committee to  
subpoena me as a witness in this case. I reserve to myself all rights  
which I have, as a member of the lower house, to come here volun-  
tarily.

By Senator O'Connor :

Q. Where do you live? A. Buffalo.

Q. Are you, at present, a member of the Legislature? A. I am; yes, sir.

Q. A member of the Assembly? A. Yes, sir.

Q. From what Assembly district? A. The Second.

Q. A member from Erie County? A. Yes, sir.

Q. You knew of the pendency in the Senate here of the proposed legislation with reference to the police department of Buffalo? A. Yes, sir.

Q. A bill that had passed the Assembly? A. Yes, sir.

Q. And was pending in the Senate at the time certain publications were made in the New York Tribune and other New York papers with reference to that measure? A. Yes, sir.

Q. Do you know Governor Sheehan? A. I know him by sight.

Q. Have you read the published articles? A. I have—two of them.

Q. The ones wherein it was alleged certain efforts had been made to approach yourself, and other members of Buffalo, with reference to influencing them in regard to their action on Buffalo police bills? A. Yes, sir. I read one or two of the New York papers.

Q. What papers did you read? A. The New York Times.

Q. Did you read the World? A. I saw the heading.

Q. Did you read the New York Tribune? A. No, sir.

Q. Did you read the New York Herald? A. Part of it, not all of it; those are the only two I read, the New York Times and New York Herald, and saw the heading of the World.

Q. Will you state what you know about any persons approaching yourself, or anybody else, in regard to influencing them, or seeking to influence them, as to their action on this so-called police bill? A. It was about two days before this bill was passed in the Assembly, I was approached in the corridor of the Assembly with reference to this bill.

Q. By whom? A. At the present time, I am not ready to state, because I promised I would not until I saw the party, or he was satisfied to let me give his name.

Q. Do you know the party? A. Yes, sir; very well.

Q. How long have you known him? A. Two or three years.

Q. You may state what he said with reference to the matter. A. I will state it as near as I possibly can; it is so long ago, and I did not pay much attention to it, I cannot give the words; I was approached in the corridor with reference to this bill, and got to talking the matter over; I was asked if we would be willing to submit to an amendment to the bill, and claiming it was very foolish for us Republicans to pass

the bill if it was no good to us; at the same time, he thought it could be put in such shape to have the appointment of commissioners held off for another year, and he thought this coming fall we would be able to elect a Republican mayor; and he thought it would be a good thing for us to have an amendment put in the bill, to have it read in such shape that the incoming mayor would appoint the new police commissioners, and have the Republican party benefited by it; I told him, as a Republican, I did not like the bill very much, but I considered it my duty, as certain pledges were made by the party and members to a certain extent, that they would restore the charter providing we were elected, and in justice to the people of my district, and my friends in Buffalo, I have told him, under the circumstances, I could not do any different. At the same time, I knew it did not benefit us any, and that, in a political way, this amendment would suit me. He kept on talking to me, and said, in different ways, I would be benefited, and that if I could induce some of the rest of the members to allow that amendment to go in, that next fall it would make things kind of easy; that it would be a nice thing for me to come back, but everything was put in such an indefinite way that I cannot exactly describe the way it was put. I looked at it in such a way, from the way he spoke of the matter, I could name the man I should run against; for, as I said before, the idea was conveyed it would be made pretty easy for me to come back for another term, and then, again, as I said before, with reference to any money matters, as I said to the newspaper reporters, I did not stand ready to make any statement about that; that is, I meant from the drift of the talk I could not positively accuse the man of offering me any bribe in the shape of money.

Q. How was it put — what were the words? A. I cannot bring back the words, because it was so long ago, but I did not pay much attention to it. Just as quick as I saw this party, I went into the Assembly chamber and spoke to one or two of my colleagues with reference to the matter, but they did not pay any attention to it. Two days afterwards the bill passed, and that ended my duty with reference to that; and as no fault could be found with me, I did not pay any particular attention to this matter, but I got the impression, from the drift of the talk, that money could be had if we wanted it.

By Senator McMahon:

Q. Can you state what you said to your colleagues? A. No, sir; I said the thing was brought on in such a way that I could not swear that money was offered.

Q. Who were the colleagues? A. Mr. Gerst and Mr. Whittet.

Q. Was either of the gentlemen named by you present at the conversation you had with this party? A. No, sir; we were all alone. I told this party the following morning—he had asked me to tell what my colleagues would do—I said to him, “No, sir; I do not believe there is any use.” And the following day the bill passed, and it was on account of rumors being floated with reference to this matter, that was the way I come to make this statement. The newspaper reporters wanted me to tell, as near as I could what there was of it, and I said to them I would not swear there was any money offered to me, because the man might say I misconstrued what he said, and that I did not want the newspapers to say that any money was offered me, because I might have misconstrued it and I said to my colleagues the same as it was put to me.

Q. Have you stated all you know with reference to any attempts being made to influence members of the Legislature? A. All I know myself; I have heard a good deal.

Q. You have stated all you personally know? A. I have stated all I can think of just now.

Q. You have given us your best recollection now, of the conversation you had with the person? A. Yes, sir.

Q. State to the committee, as near as you can, in what connection the word “money” was used? A. That is where I am at a loss; I can not bring it on in the way it was done; I did not think anything serious would come of it, and the bill was passed two days afterwards.

Q. At the time you were there talking, didn’t you pay any attention then? A. Yes, sir; I paid attention then.

Q. Can you give the committee any idea of how he used the word “money” in connection with this legislation? A. Not any nearer than I have stated it; they might claim he said so and so, but from what he said to me, it was my opinion, and I thought if money would have done it, we could get it if we wanted it.

By Senator Saxton:

Q. Did you immediately go and tell your colleagues, Mr. Gerst and Mr. Whittet, what this conversation was? A. I gave them part of it.

Q. Did you give them the portion of it from which you inferred you could have money? A. Yes, sir.

Q. Then, if you told them at that time, you told them as you recollected it then? A. Yes, sir.

Q. Do you remember whether you repeated the words to them from which you inferred that money was to be had? A. I could not say that I mentioned money.

Q. Do you remember what you did say? A. No, sir.

Q. You can not recollect, or bring to your mind any language which was used, which conveyed the impression that money could be had? A. No, sir.

Q. And you mean simply that it was what you got from some one and from what he said that gave rise to the inference that you could have money if you desired it? A. Yes, sir.

By Senator Lexow :

Q. Your recollection is that you stated to your colleagues the facts as you remembered them? A. Yes, sir; they were fresh in my memory then; if this bill had laid in the Assembly longer I probably would have thought of this matter more and could have remembered it.

By Senator Saxton :

Q. You have heard rumors of other attempts of a similar kind? A. Yes, sir.

Q. Have you heard the names of any particular persons as having been approached in the same line? A. I have heard of a certain Member of Assembly — a Republican member — not from Erie county.

Q. Give the name of any person about whom you have heard in connection with such attempts? A. I don't know of any personally.

Q. You have heard of other names? A. I have heard of them, but did not hear it direct; I got it from some of my colleagues.

By Senator O'Connor:

Q. Can you give the names of any parties that you know of who were approached? A. As I said, I only heard of a certain member; one of our members stated that one of the members of Assembly — a member from Erie county — said to him that he heard an outside member say that he would like to know if the Erie county members could not be reached.

Q. Who was the member from Erie county who made that statement? A. Mr. Gerst.

Q. Will you swear now that nobody ever approached you or offered money or any other consideration for your vote on this bill? A. I will swear to what I have said with reference to running for office; I will swear to that.

Q. You mean that if you voted for this amendment they would put up an easy person against you? A. It was brought in in such a way that it was understood next fall I could come back.

Q. Will you swear that any person offered you money? A. No, sir.

Q. Do you decline to give the name of this man? A. Yes, sir. I gave my word of honor I would not.

Q. Or his residence? A. No, I would not give his residence away, unless this man is satisfied that is connected with it.

By Senator McMahon :

Q. Do you consider that when a man approaches you, and makes a criminal proposition to you, that you are obliged to conceal his name as a point of honor? A. I do, to a certain extent. I don't think it a proper thing for me to do, after I have said I would not.

By Senator O'Connor :

Q. Were his approaches to you under the seal of secrecy? A. Yes, sir ; to a certain extent.

Q. Did you tell your colleagues who it was that approached you? A. Yes, sir ; some of them.

Q. Which of your colleagues did you tell? A. Mr. Gerst and Mr. Whittet.

Q. How did you come to violate the secrecy that had been imposed upon you, in these two instances? A. I understand it did not make any difference, so far as they were concerned. He wanted me to consult with them.

Q. Did he name any members when he talked with you? A. I think he did, yes, sir. I am pretty sure he did.

Q. Can you give us the names of the members? A. Mr. Gerst and Mr. Braun.

Q. Are they both members from Erie county? A. Yes, sir.

Q. In what respect were you placed under the seal of secrecy when he made these approaches, and what pledge did you give about it? A. There was no pledge. It was just a mutual understanding, as friends. He is a personal friend of mine.

Q. Then, as a matter of fact, there was no pledge of secrecy given at the time? A. He asked me not to say anything about it, only to speak to the members about it, and not let it go any further ; and the following morning I told him what there was about it.

Q. Have you told us all you know of any approaches made to members from Erie county to influence their vote? A. As near as I can recollect.

Q. Why did you regard it necessary, under the statement you make here, to conceal the name of the man who approached you? A. Because I made the statement I would not.

Q. Well, in anything you have testified here, aside from saying they would make it easy for you next fall, was any attempt made to influence your action by the use of money? A. I didn't say there was.

By Senator McMahon:

Q. When you reported the next day that it was of no use, did you tell him that you made the proposition to your colleagues? A. No sir; I told him there was no use talking with reference to that amendment.

By Senator O'Connor:

Q. Do you know Mr. Murlin of the New York Tribune? A. Yes, sir.

Q. Do you know Hugh Hastings of the Times? A. I know them all by sight.

Q. How did you come to talk with the newspaper reporters? A. Mr. Perley came to see me with the New York Herald reporter, Mr. Brown.

Q. Did you tell Mr. Brown, or the New York reporters, that you have talked with, the same as you have testified here? A. Yes, sir.

Q. That was the substance of what you told them? A. Yes, sir.

Q. Did you say anything about \$10,000, or in what respect \$10,000 was spoken of? A. I said to the newspaper reporters that I wanted them to distinctly understand that I would not go on the stand and swear that any money was offered me, and I did not want them to put it in that way; and I told them the way the thing was put that I could not swear to it positively, and I did not want it in any paper that way; but I did say with reference to the other matter, that I would swear to it, but the money matter I gave them to understand I would not stand by.

Q. Did you say that to Mr. Perley, the reporter of the Buffalo Express? A. Yes, sir, to Mr. Perley and Mr. Brown of the New York Herald.

Q. Did you go anywhere with them? A. No, sir; it was in the Assembly chamber.

Q. Did you make a statement to any other reporter? A. I met Mr. Smith, of the Buffalo Times, and a reporter of the New York Press whose name I do not know; I met those two men after that.

By Senator Lexow:

Q. Is your recollection of the circumstances to-day as good as it was when you spoke to the reporters? A. Yes, sir.

Q. Is your recollection now substantially the same as what you stated to them? A. Yes, sir.

By Senator Saxton:

Q. Did you understand from this person that he wanted you to vote for the amendment to that bill by promising you, among other things, that you would be taken care of next fall? A. Yes, sir.

Q. You understood from that, that that was an improper attempt to influence your vote on that matter? A. I did not pay much attention to it ; I did not consider it was at that time.

Q. Did you understand that was a breach of your privileges as a member of Assembly, and that you should have reported that to the Assembly, and that that person could be punished for contempt of the Assembly? A. No, sir.

Q. You did not report it to anybody, only your colleagues? A. No, sir.

By Senator O'Connor:

Q. What is your business? A. I was a clerk in the city Treasurer's office ; I was United States gauger three years, and after that I accepted a position in the city Treasurer's office.

By Lieutenant-Governor Sheehan:

Q. This gentleman to whom you refer as having had this conversation with you, where did you say you saw him? A. In the corridor, outside the Assembly Chamber.

Q. Two days before this bill was passed by the Assembly? A. Yes, sir; two or three days.

Q. Did you ever have any talk with him prior to that time? A. Yes, sir; I have had talks with him.

Q. Where? A. Oh, in meeting him off and on.

Q. What were the talks about? A. Just friendly talks; not in reference to any political matters.

Q. Nothing in reference to this police bill? A. No, sir.

Q. This is the first time he had ever talked with you in reference to the police bill, in the corridor, two days before it came up? A. I think so, but we might have spoken about it when we have been talking.

Q. Your talks before this were general talks? A. Yes, sir.

Q. You have been a United States guager and a clerk in the city Treasurer's office? A. Yes, sir.

Q. You have a fairly good memory? A. Yes, sir.

Q. You recollect distinctly that this gentleman said to you in substance, that matters would be made easy for you next fall? A. Yes, sir.

Q. Do you think that money is dear to every man's heart? A. Yes, sir.

Q. Don't you think that whatever reference was made to money that it would have stamped its mark on your mind as being a criminal act? A. No, not in this case.

Q. Why? A. Because it was a very serious matter, and money was not a consideration.

Q. Don't you think if the word "money" was used it would stamp itself on your mind? A. No, sir.

Q. Was the word "money" used? A. No, sir.

Q. Will you swear, word for word, that conversation as you understand it? A. I have already done so. I don't think it is necessary to state it again. I have once sworn to it.

Q. Did you meet this man accidentally? A. Yes, sir.

Q. What was the first thing said by either of you? A. I cannot state the first thing.

Q. What was the first thing you recollect? A. I can't say that either. I did not pay so very much attention to it, and it went out of my mind. I didn't think anything of it after it happened.

Q. As I recollect your conversation, you said you spoke to Perley and Brown, and Mr. Smith of the Times, and the reporter of the New York Press? A. Yes, sir.

Q. Did you read the Buffalo Times? A. Yes, sir.

Q. Here is an interview which is reported to have been held with you by Smith of the Buffalo Times. Did he read while you spoke? A. I did not notice it if he did.

Q. "I am a member of the Sprudel Fishing Club, an organization to which a lot of men who favor the Democratic machine belong;" did you say that? A. No, sir; I did not say that.

Q. Did you mention that club in your interview? A. They wanted to know how I got in with some of your people, and I said that I was a member of that club; and a good many of your people, friends of yours, were members of that club.

Q. You did mention the club, then? A. I did, to Mr. Brown.

Q. Why did you say you did not mention the Sprudel Club to Smith? A. I say I did not mention it to him; that was to Brown.

Q. If you mentioned it to Brown, was it not natural that you should mention it to Smith and Bowden? A. It would be, but he started in different, and asked me different questions.

Q. (Reading from interview.) "A certain man, I will not say who, but who is a friend of mine, came to me and said that it would be of no advantage to the Republican party to have the bill passed in its present form;" did he say that? A. Yes, sir.

Q. "He said that if I would consent to an amendment that would give the next mayor, who would probably be a Republican, the power of appointing police commissioners, I would be re-elected this year;" did he say that? A. I said that would make it easy for me.

Q. "The story that any money was offered to me is untrue, and I was not given to understand that I would get any money if I favored the amendment they wanted;" is that true? A. No, sir; it was put in such shape I could not swear whether he meant money or not.

Q. Do you swear now that you did not say to Smith, in the presence of Bowden, that the story that any money was offered you was untrue? A. I said I could not swear to it.

Q. What is the difference? A. Why it is put different.

Q. "I don't know whether the man who talked with me came from Sheehan;" what about that? A. Your name was not mentioned.

Q. "I thought it only natural that I should be the one that a favor should be asked, as I have always lived among the men who were anxious to see the present police board remain, and that know me better than I do any other; I say again that no money was offered to me, and I don't know whether any money was used; I would probably know if there was any;" is that true? A. Yes, sir.

Q. You say again, "I am frank to say that I don't think it is good politics for the Republicans to nominate or to endorse Mayor Bishop for re-election;" did you say that? A. Yes, sir.

Q. "I would not support him; if the other members supported an amendment which would give to the next mayor the appointment of the police board, I would gladly have supported it;" did you say that? A. I don't know as I put it that way; in looking at it in a political way, I don't think it was a good thing, as far as our party was concerned, but if our people were satisfied I was satisfied.

Q. Didn't you state in this conversation that, in your own judgment, it was good politics to give the next mayor the appointment? A. Yes, sir.

Q. "I don't believe in this talk of re-electing Mayor Bishop; as I said before, I think we should get the benefit of this legislation;" is that true? A. Yes, sir.

Q. You thought the bill that finally did pass was of no use to the Republican party, but if it was amended it would be a benefit to the next Republican mayor? A. Yes, sir; so far as the patronage was concerned.

Q. You thought the next mayor would be a Republican? A. Yes, sir.

Q. You thought at the time that would be good politics? A. Yes, sir.

Q. And you think so now? A. Yes, sir.

Q. All this talk in the different newspapers which puts in your mouth the words "that money would be used or that they were attempting to bribe you," is not true? A. Yes, sir.

Q. You say that you promised not to reveal the name of this man? A. There was not exactly a pledge, it was an understanding.

Q. An understanding with whom? A. Between us.

Q. I thought you said there was no secrecy enjoined on you, and that you mentioned a name to some of the Republican members? A. I said it was understood that I was to tell those men, but not to go any further.

Q. You stated in answer to Senator O'Connor that you promised this man not to mention his name? A. I said the name was not to go any further unless he was willing.

Q. Why don't you reveal his name? A. On personal grounds.

Q. Is he a Member of Assembly? A. I won't say.

Q. Does he live in Buffalo? A. Yes, sir.

Q. Will you swear he is not a Member of Assembly? A. Won't swear to anything with reference to whom it was.

Q. (Pointing) You won't swear that is the man? A. No, sir.

Q. You won't swear he is not the man? A. No, sir.

Q. Why? A. I don't feel disposed to.

Q. Will you swear that did not take place with Mr. Coughlin in the Delavan house, while drinking a glass of beer? A. It did not.

Q. Have you stated to the reporters that the man who talked with you was a lobbyist? A. No, sir.

Q. Any statement in the newspapers that you said the man was a lobbyist was untrue? A. I never said he was a lobbyist.

Q. If you thought this man was trying to improperly influence you, don't you think it was your duty to rise in your place and state the facts? A. This man was a personal friend of mine, and I looked at it

that he regarded it as a personal favor for me to get my colleagues to do that.

By Senator O'Connor:

Q. If I understand you right, you were not in favor of this amendment? A. Personally, I was; but under the circumstances I could not be.

By Lieutenant-Governor Sheehan:

Q. You voted for that bill on its final passage? A. Yes, sir.

Q. The day that bill was up, it gave rise to quite a scene in the Assembly? A. Yes, sir.

Q. And hard words passed on both sides? A. Yes, sir.

Q. You never saw a more exciting day in the Assembly? A. No, sir.

Q. You knew there was danger of it being beaten? A. Nothing only rumors.

Q. Don't you know it only received sixty-eight Republican votes, only three more than enough to pass it? A. Yes, sir; but we got two Democratic votes, making it seventy.

Q. Don't you think it was your duty, as a friend to that bill, when you knew that improper influences had been used—don't you think you should have gotten up to protect the people of Buffalo, and made this statement? A. I said I did not think the bill was in danger, and I had already said to my colleagues what there was of it; I didn't think any more about it particularly; the bill passed in a couple of days, and if it had not passed, it would have been looked at more seriously.

Q. You did say on your examination that you didn't say to any of your colleagues that anybody was attempting to use money? A. I said it was brought on in such a way I could not tell, but that I thought if they wanted to make some money they could get it.

Q. Do you think that was a proper thing to do to a fellow Member of Assembly? A. Certainly I do; I wanted to let them know what there was of it.

Q. You wanted to let them know there was money in it? A. I wanted them to know the drift of things.

Q. You stated on your direct examination that you didn't state to your colleagues that money was offered? A. Not directly.

Q. Did you state that money was offered indirectly? A. I told you that I said the way this man spoke that I thought money could be had.

Q. If that is so, can not you give us the exact language which led you to that conclusion? A. No, sir.

Q. The fact that the man proposed to you to commit a crime makes no impression on your mind? A. I didn't look at it in that way; he was a personal friend.

Q. If your personal friend offered you money to influence your action, would that make it any less a crime? A. I said there was no money offered directly.

Q. Can you give the language used that made you think there was money behind it? A. I can not.

By Senator McMahon:

Q. You have been able to give what you said to the reporters; it seems to me you ought to be able to give this conversation now? A. I am willing to substantiate anything I said to the newspapers; but I am not responsible as to how some of the newspapers report me.

By Senator Saxton:

Q. This person who talked with you didn't profess to be acting in the interest of the Republican party? A. No, sir; he is a Democrat.

By Mr. Murlin:

Q. Did you have any conversation with myself Monday evening last? A. I don't think I did Monday night.

By Lieut.-Gov. Sheehan:

Q. I understood you to say that the reporters you talked with were Brown, Perley and Smith, and a gentleman of the New York Press? A. Yes, sir.

Q. Do you recollect talking with any other newspaper men? A. I think I have met him (Mr. Murlin) off somewhere in the Assembly chamber, and had a few words with him; I don't think I had any particular interview with him.

Cornelius Coughlin, being duly sworn as a witness in the above-entitled matter, testified as follows:

By Senator O'Connor:

Q. Where do you live? A. Buffalo.

Q. Are you a member of the Legislature? A. Yes, sir.

Q. What district of the county of Erie? A. The first.

Q. Are you the Democratic member? A. Yes, sir.

Q. Do you know Mr. Seibert? A. Yes, sir.

Q. How long have you known him? A. I think, possibly, about five years.

Q. What has been the relations between Seibert and yourself? A. Been friendly, in a social way; we have not met more than once a month.

Q. Did you have any talk with Mr. Seibert about this Buffalo legislation? A. Yes, sir.

Q. Where? A. We were drinking a glass of beer down at the Delavan bar.

Q. When? A. About three weeks ago.

Q. State what the conversation was. A. We sat down, drinking a glass of beer, and I asked Mr. Seibert what the Republicans were going to gain by the passage of the bill, and he said, "Nothing that he knew of;" we merely had a casual talk there; I don't know, word for word, what was said; I asked him if the bill was amended to hold off for a year, if he did not think it would make a considerable number of friends for him in Buffalo among Democrats; he said he thought possibly it would, and I said, "Don't you think if that was done it would make it easy for you to come back as a member of the Assembly next year, and he said he didn't know but what it would; and we sat there and drank a few glasses of beer, and nothing more was said of any importance that I know of.

Q. Did you have any talk with him afterwards about it? A. Not to my knowledge.

Q. Did you have any talk in the corridors? A. Can't say that I did; I don't remember it.

Q. Ever have any talk with him in which the word "money" was used? A. I did not.

Q. Do you recollect any other conversation except the one you testified to at the Delavan House? A. No, sir; I didn't have any more conversations, only such as this: I might have asked him if the bill would come up to-day, or if it would go to a third reading.

Q. Did you understand you were holding out an inducement for him that if he would vote for the amendment that he would receive Democratic support next fall? A. No more than I think now that he would get Democratic votes if he voted for it, because there were a good many people favorable to passing the bill, and giving the mayor the power of appointment.

Q. Did you talk with Mr. Brown about this matter? A. No, sir.

Q. When did you first hear about any money being used or attempting to use any with reference to this Buffalo legislation? A. In the Press the other day.

Q. Do you know of any efforts to use money prior to that time? A. No, sir; I do not.

By Senator Saxton:

Q. You say you didn't have any conversation with Seibert about this matter in the corridor? A. Can't say that I ever mentioned it in the corridor.

Q. Can you say whether you did or not? A. I did not, directly, unless it was in the way of saying "whether the bill came up to-day."

Q. Can you say you didn't have a conversation with him in the corridor in which something was said about his prospects next fall? A. I did not.

Q. You are certain that the only conversation you had with him about the matter was at the Delavan? A. It was in the Delavan bar-room; we were drinking beer.

Q. Is that the only conversation you had with him on that subject? A. Yes, sir.

Q. Do you recollect when it was? A. About three weeks ago; I went down there one day; I went there pretty near every afternoon on the invitation of the New York members.

Q. Had you been requested by anybody to have a conversation with him on the subject? A. No, sir.

Q. It was voluntary on your part? A. Yes, sir.

Q. And it was not because of the suggestion made by any other person? A. It was not.

Q. Did anybody suggest to you to have the talk with Seibert on that question? A. Nobody whatever.

Q. You asked him if he didn't think it would be in the interest of the Republican party to vote for such an amendment? A. I can not say that I made that remark.

Q. What was it you said to him? A. I asked him what Mayor Bishop would do for the Republican party, in the event of the passage of the bill.

Q. Then, you put it in the light that it was for his interest as a Republican to vote for that amendment? A. I suppose I did; I meant if that bill was amended they would get more out of it by way of electing a mayor next fall.

Q. You held it out as an inducement, that if an amendment was adopted, it would be in the interest of the Republican party? A. I suppose it would be.

Q. At the same time you held the inducement to him that he would get Democratic votes by aiding the Republican party? A. I said it possibly would make Democratic votes for him next fall.

Q. You didn't suppose he would make Democratic votes by acting in the interest of the Republican party? A. I meant for himself.

Q. You didn't think that amendment was in the interest of the Republican party? A. I didn't say I did think it was.

Q. Did he suggest to Seibert that he tell Gerst or anybody else in reference to what you had told him? A. No, sir; he said he suggested it was the best thing to do, to allow the appointment of the commissioners to the incoming mayor.

Q. Didn't you say to Seibert he had better consult with his associates about what you had told him? A. No, sir; I did not advise. He said if any of the rest of them would vote for it, he would. I think he said he would say something to the other members.

Q. Didn't you suggest that he bear your message to his friends? A. I didn't give him any message.

Q. Well, then, the statement you made to him? A. I don't think I said that. I don't know how it did come about. I think he said he would mention it to the others. I think he said he never considered the repeal of the Buffalo charter any benefit to the Republican party.

Q. Are you positive that you did not suggest to him to consult with his friends about what you have spoken? A. I didn't tell him to.

Q. Are you positive about that? A. Yes, sir.

By Lieutenant-Governor SHEEHAN :

Q. You had such an amendment as you spoke of prepared and offered in the Assembly? A. I did.

Q. Did I ever ask you to speak to the Erie County members or any member on this subject in the Assembly? A. No, sir.

Q. Was my name mentioned in any shape or manner in that conversation? A. No, sir. I don't believe Seibert did, and I didn't.

Phillip Gerst, being sworn as a witness in the above entitled matter, testified as follows :

By Senator O'Connor :

Q. Where do you reside? A. In the city of Buffalo.

Q. Are you a Member of Assembly from the county of Erie? A. Yes, sir.

Q. From what district? A. The Fifth.

Q. Are you a Republican? A. I am.

Q. Do you know Mr. Seibert? A. I do.

Q. Did you have a talk with Mr. Seibert about an amendment to the Buffalo charter when it was pending in the Assembly? A. I did.

Q. And you heard Seibert testify on this examination? A. I did.

Q. Do you remember the occasion he refers to? A. I do.

Q. When did he first speak to you about the matter? A. One morning when the Assembly first opened; I don't remember the day.

Q. How long before the amendment passed the Assembly? A. I can't say as to that; just a few days.

Q. What did he say to you about it? A. He told me he had been approached in the corridor by a member on the opposite side, asking if he would see the others members, and try to get their consent to passing an amendment.

Q. What else? A. That is all.

Q. Is that all he said to you; did he name who approached him? A. Yes, sir.

Q. Whom? A. Mr. Coughlin.

Q. Did he state what he said to him, or what the approaches consisted of? A. He said nothing in particular; he gave me to understand by his answer that there was something in it.

Q. In what way did he convey the impression to you that there was something in it; did he name any amount? A. He didn't name any particular amount; he thought there was \$2,000 apiece for the members from Erie — about that.

Q. Did he say anything about the man who approached him, telling him that? A. I so understood it.

Q. Did he say to you that the man who had talked with him in the corridor had told him that? A. That is the way I understood it.

Q. Can you give the language he used? A. I cannot.

Q. Do you know anything more about the use of money or an attempted use of money, except what Seibert told you? A. All I know I got from Seibert.

Q. Any other person approach you in any way? A. No, sir.

By Lieut.-Gov. Sheehan:

Q. Have you stated all you know about it? A. I have.

By Senator Saxton:

Q. Do you know anything about Coughlin and Seibert being in the corridor together? A. No, sir; he came to me and said he had just met him.

Q. And that was soon after the house came together? A. Yes, sir.

Q. Was Coughlin in the house? A. Yes, sir.

Q. Do you know whether they came in together? A. No, sir.

Q. Do you know who came in first? A. I do not.

Q. Did he tell you the conversation occurred just before that in the corridor? A. Yes, sir.

Q. Who else was present? A. I sat next to Mr. Braun in the Assembly, but I think he had left his seat, and Seibert took his seat.

Q. Anybody hear the conversation? A. No, sir.

By Senator Lexow:

Q. Was the sum of \$2,000 mentioned? A. About that; he thought we would get that.

By Senator Saxton:

Q. Did he tell you he had been having a conversation with Coughlin in the corridor, and thought there was money in it; he thought the Erie county Assemblyman could get \$2,000? A. Yes, sir.

By Senator O'Connor:

Q. Do you know why he reported the conversation to you? A. He was to report the next day.

By Senator Saxton:

Q. Did he say he was to report to Coughlin the next day? A. Yes, sir.

By Senator Lexow:

Q. Did he say he had an understanding with that gentlemen to report the next day to him? A. I so understood it.

Q. Was the time mentioned? A. The next morning.

By Senator O'Connor:

Q. Did you ever hear anything about it afterwards? A. No, sir.

Q. What did you say to him? A. I told him I would not consider it.

Q. Did you understand that Seibert was approaching you to let you know you could get \$2,000? A. We talked it over.

Q. Did you understand why he was reporting to you that you could get \$2,000? A. He talked the matter over with me.

Q. For what purpose? A. Because he had been spoken to about it.

Q. You heard him testify that he thought you could get some money if you wanted it? A. Yes, sir.

Q. What did you say to that? A. I told him we could not consider it.

Q. What did you understand he thought about it? A. I understood he took the same stand.

Q. Did you understand he was entertaining the proposition? A. No, sir.

Q. All your information on this matter is from Seibert? A. Yes, sir.

By Lieut.-Gov. Sheehan :

Q. Did you hear Seibert sworn? A. Yes, sir.

Q. Did you hear this conversation take place in the corridor, or did he speak to you and the other members the same morning? A. Yes, sir.

Q. Did Seibert talk to any other members? A. All of them.

Q. Did you understand that he had the same talk with them that he did with you? A. I don't know.

Q. Did he talk with you first? A. I can't say as to that.

Q. When he talked to you, Braun left the seat he had, and he took that seat? Had he talked with you up to that time? A. I don't know; he might have met Braun in some other place in the building.

Q. This occurred right after the Assembly convened? A. Yes, sir.

Q. You say he talked with other members, and they gave him the same answer. A. I understand they talked the same.

Q. From whom? A. Our general talk.

Q. With Seibert? A. No, with all the members.

Q. That same day after Seibert had approached you? A. I presume we talked of it more or less.

Q. Did you talk about it that night? A. I can't say.

Q. Did you get together and talk it over that day? A. No, sir.

Q. Whom did you talk with first? A. I can't say; there were four others there; I don't remember particularly which one I spoke to first.

Q. There were four others there and you understood they had been approached by Seibert? A. I didn't say approached; I said we talked it over.

Q. Did he say what he wanted done with the bill? A. He wanted an amendment to the bill.

Q. Did you understand from Seibert's conversation that he was doing that on his own responsibility or for some one else? A. He simply told me what had been told him.

Q. Did you understand he was making that proposition on his own account? A. No, sir.

Q. Or on account of Coughlin? A. No, sir.

Q. You were very much interested in the passage of that bill and you know it was passed by sixty-eight Republican votes? A. Yes, sir.

Q. Don't you think it was part of your duty to state the fact that money was being used in that matter? A. Simon refused to tell me who it was for some time who had talked with him, but he finally told me after I agreed not to mention it.

Q. Did he tell you the same day? A. Yes, sir.

Q. Before the adjournment of the Legislature that day he told you; don't you think it was part of your duty if a man approached you to influence your vote for a consideration, that it was your sworn duty to state the fact to the House? A. Yes, sir; if the bill was in danger.

Q. You would not state it if the bill was in danger? A. Yes, sir.

Q. If a man attempted to bribe you, you would only state that a bribe had been proffered when the bill was in danger? A. They would not attempt to bribe me.

Q. What did you understand from the proposition? A. As I said before, that this money could be had, and that he thought that the people on the other side were willing to pay for this amendment.

Q. That was a big pile of money? A. I don't know.

Q. What is your judgment, whether or not \$10,000 would have been enough to have amended that bill? A. \$10,000 would not buy one of them.

Q. Did Seibert say anything to you that it would make friends with the Democratic party for him next fall when he was running? A. No, sir.

Q. Did he say that a combination of Democrats would be made to help elect him? A. No, sir.

By Senator O'Connor:

Q. Did he tell you that one of the inducements held out to him was, if he would vote for this amendment, he would make a lot of Democrats friendly to him next fall? A. No, sir.

Q. He didn't say anything only about the money? A. No, sir.

Q. He said to you, if you would vote for this amendment, you could get \$2,000? A. He didn't ask me to vote for it.

By Senator Saxton:

Q. You say you didn't understand this proposition came from Seibert himself? A. No, sir.

Q. Did you understand the proposition came from Coughlin? I would like to have your understanding of whom this proposition came from. A. He told me what was told him, and afterwards he told me.

Q. You understood the suggestion came from Coughlin? A. No, I would not say that; he said the people on the other side would be willing to do that.

Q. He didn't mention any names at all? A. No, sir.

Q. Was Coughlin's name the only one he mentioned? A. That was all.

By Lieutenant-Governor Sheehan:

Q. You said you heard Seibert's testimony? A. Part of it.

Q. Mr. Seibert swore that the word "money" was not used in any shape or manner; how do you reconcile that evidence?

(Question stricken out.)

Q. Did any newspaper reporter come to see you; did you give them any interview? A. I guess they spoke to me about it.

Q. Any information you gave them, was it based on the information you received from Seibert? A. Yes, sir.

Q. When you talked with them, did you give them to understand that Seibert was the person who gave you the information? A. Yes, sir.

Charles Braun, being duly sworn as a witness in the above entitled matter, testified as follows:

By Senator O'Connor:

Q. You live in the city of Buffalo? A. Yes, sir.

Q. Are you a Republican Member of Assembly from Erie county? A. Yes, sir.

Q. Do you know Mr. Seibert? A. I do.

Q. Do you know Mr. Gerst? A. I do.

Q. Do you know Mr. Coughlin? A. I do.

Q. You heard these three witnesses testify to-day? A. I did.

Q. Referring to the occasion that Seibert said he talked with you about this matter—do you remember when that was? A. I remember him speaking to me about it. I don't remember the day.

Q. Was it some days before the bill passed the Assembly? A. Yes, sir.

Q. Where did he talk with you about it? A. In the Assembly chamber.

Q. Before or after the Assembly had convened? A. After.

Q. Who was present? A. Nobody.

Q. State to the committee, using his language as near as you can, what he said? A. He came walking in the door, and I was walking up the aisle. He said, "They want to offer an amendment to the Buffalo Police bill," and I said, "Is that so?" he said, "Yes, and it looks as if they were willing to pay for it." I said, "That is a good one," and I walked along.

Q. Is that all the talk you had? A. Yes, sir.

Q. Is that all the conversation you had? A. Yes, sir; I didn't pay any attention to it.

Q. You didn't believe it? A. I thought he was joking.

Q. Did you talk with any newspaper reporters about the matter? A. No, sir. I have spoken about it after though.

Q. To whom? A. I spoke to Mr. Perley, reporter of the Buffalo Express.

Q. What did you say to him? A. Just what I have stated here.

Q. Have you testified to all you know about any attempts having been made to influence the action of the members of the Legislature? A. Yes, sir.

Q. All you know about the matter is confined to what Seibert said to you that morning? A. Yes, sir.

Q. You did not propose to talk any further with him after he made that suggestion? A. No, sir.

By Senator Saxton :

Q. You say you saw Seibert coming down the aisle? A. Yes, sir.

Q. Was that the first time that he had made his appearance that morning? A. I think he had been in before.

Q. Did you notice anybody with him? A. No, sir.

Q. Did you notice Coughlin there? A. No, sir.

Q. Did you notice whether he was there or not? A. No, sir.

Q. Did you notice when he came in? A. No, sir.

Q. Did you see them together? A. No, sir.

By Senator McMahon :

Q. Did you have any conversation with your colleagues that day or the next morning about the matter? A. No, sir.

By Senator Lexow :

Q. Did you hear the sum of \$2,000 mentioned at that time by Mr. Seibert? A. No, sir.

Q. He didn't mention any figures at all? A. No, sir.

Q. Did he say anything about having to report to anybody else?

A. No, sir.

By Lieutenant-Governor Sheehan:

Q. Have I ever met you before? A I never spoke to you in my life. This is the first time.

Joseph L. Whittet, being duly sworn as a witness in the above-entitled matter, testified as follows:

By Senator O'Connor:

Q. Do you live at Buffalo? A. Yes, sir.

Q. Member of Assembly from Erie county? A. Yes, sir.

Q. What district? A. Number four.

Q. Do you know Mr. Seibert? A. Yes, sir.

Q. Did he have any talk with you about this matter? A. Yes, sir.

Q. When? A. One morning before the opening of the session; but I didn't take it as a serious proposition.

Q. When was that, with reference to the time the bill passed the Assembly? A. It was just about that time.

Q. Will you go on and state what he said to you on that occasion? A. As I understood it, he said a proposition had been made to him, but he didn't make the proposition to me. He said he had been approached by people who wanted to know if the charter could be amended, or words to that effect, and I asked him what his answer was, and he said he didn't consider, and I told him that was correct. I asked him the name of the party. He was mistaken in saying he told me the name of the party, because he refused; and I told him that on that occasion he ought to expose the party.

Q. What did he state was offered him? A. He didn't state. He said he thought there was something in it, or words to that effect.

Q. Did he say anything about the proposition having been made by which he could be returned as a member? A. No, sir.

Q. Did he say there was something in it, in general terms? A. Yes, sir.

Q. For the passage of an amendment to the bill? A. Yes, sir; to change it so as to put the appointment over.

Q. You say you regarded it as a joke? A. I didn't regard it as a joke, but I didn't regard that he was serious.

Q. Do you know anything further about any efforts being made to influence the action of the members of the Legislature of either branch?

A. No, sir.

Q. Only what was said to you by Seibert? A. That was all.

Q. Your information is solely on what he communicated to you? A. Yes, sir.

Q. Do you know Mr. Sheehan? A. I have been introduced to him; I can not claim to know him.

By Lieutenant-Governor Sheehan:

Q. Did he act in a serious way, or was he in a jocular frame of mind?

A. I didn't take it in a serious way.

Q. Has he got quite a reputation as being quite a joker? A. I never knew much of him.

By Senator McMahan:

Q. You say you suggested to him that he ought to expose such an attempt? A. I did, if such an attempt was made.

Charles J. Schoepflin, being duly sworn as a witness in the above entitled matter, testified as follows:

By Senator O'Connor:

Q. You reside in Buffalo? A. No, sir.

Q. You reside in Erie county? A. Yes sir.

Q. You are Member of Assembly? A. Yes, sir.

Q. From the First district? A. Yes, sir.

Q. Do you know Mr. Seibert? A. Yes, sir.

Q. Did you hear him testify in this case? A. The latter part of his testimony.

Q. How long have you known him? A. Eight or ten years.

Q. Did he have any conversation with you in regard to approaches that had been made to him? A. Mr. Whittet came to me first.

Q. After Mr. Whittet came to you, did you have a talk with Seibert? A. While Whittet was talking with me, Seibert walked up; I was in my seat, and Whittet came up and said, "Good morning;" he said that the boys had been approached to consent to an amendment to the police bill, and asked how I stood on it, and I said I would not entertain it; just then Seibert walked up in front of the desk and said they would make it worth while to consent to such an amendment, and I said "There is not money enough in the State of New York to get me to consent to any compromise," and they walked away and I went to work.

Q. Is that all the conversation you had? A. Yes, sir.

Q. When Seibert said to you that they would make it worth while for a vote in favor of the amendment, did he state what the consideration was to be? A. No, sir.

Q. Or who would make it worth while? A. I didn't pay much attention to it, but I supposed it came from the other side; I supposed it came from the people interested in having the amendment tacked on the bill.

Q. Do you know of any effort being made to approach members of Assembly, aside from what Seibert speaks of? A. No, sir; and I was pretty confident of the passage of the bill; I had seen most every member on the Republican side myself.

Q. Do you know of any attempt being made in the Assembly by any person to influence members of the Assembly, or the Senate, except as communicated to you by Seibert? A. That was all.

Q. Have you testified to all he said to you? A. Yes, sir.

By Senator Saxton:

Q. That was the only conversation you ever had with him on the subject? A. Yes, sir.

Q. And the only conversation you ever heard between others on the subject? A. Yes, sir.

By Lieutenant-Governor Sheehan:

Q. How long have you been a member of the board of supervisors of Erie county? A. Seven years.

Q. Has Coughlin been a member with you for that time? A. Yes, sir.

Q. Have your relations been friendly? A. Yes, sir.

Q. If he had a proposition to make, don't you think he would make it to you himself quicker than by doing it through any other man?

(Question withdrawn.)

Q. You didn't make use of the word "money;" did Seibert make use of the word "money" in any way? A. Not to me.

Frank E. Perley, being duly sworn as a witness in the above-entitled matter testified as follows:

By Mr. Perley:

I wish to state that I come before you voluntarily, and not in response to a subpoena; but that I am willing to go on and tell all I know about the matter.

Mr. Sheehan read the following interview had by Mr. Perley with Mr. Seibert, published in the Buffalo Express:

“Tried to Bribe Simon Seibert.

“Last Desperate Effort to Beat the Buffalo Bills.

“He was offered ‘anything he wanted for his vote and influence’

“Up in the Senate to-day.

“The outlook for the Success of the Bills is not so Bright as it has been, but they may get through — Bradley has changed front — Senator Saxton is ready for the fight, and does not want any delay.

“The Express Bureau,

“No. 132 State Street,

“Albany, N. Y., February 12. )

“A startling story of the methods by which it was hoped to defeat the Buffalo Police Bill was obtained from Assemblyman Simon Seibert to-night. It involves a great deal of city politics. Something more substantial than politics is hinted also.

“Is it or is it not true that money was offered to either yourself or the Erie county assemblymen as a delegation, if they would have consented to amend the Buffalo Police Bill?

“That pointed question, which embodies the gist of many rumors heard here in the last two weeks, was put to Assemblyman Seibert by the Express correspondent to-night.

“For some moments the assemblyman hesitated. Then, with every appearance of honesty and truthfulness, he recalled a scene in the history of the Whittet bills which, heretofore, has not been written. The offer, or proposition, or whatever it might be called, came on Tuesday, January 30th. This was just two days before the bill passed the Assembly.

““On the morning two days before the bills were passed here,”’ Assemblyman Seibert said, “a man spoke to me out in the corridor. At the time I remembered the conversation exactly, but it was two weeks ago, and I cannot be positive about some parts of the conversation now. But, anyway, this man wanted the police bill amended so that the incoming Mayor, instead of Mayor Bishop, would have the power to appoint the new police commissioners. He wanted me to talk with the other Erie county men, and see how they felt about the matter. Something or other was said, I cannot repeat the exact language, but I understood from it that we could have anything we wanted if we would consent to the amendment to let the Sheehan commissioners hold over a year longer. I told him right off that I could not for a minute listen

to any such a thing, and that I was sure that the other Buffalo men would say the same thing. Why, I said to him, if I should consent to such an amendment I would be shot if I went back to Buffalo. We would not have anything to do with such a scheme. The people of Buffalo would not stand it. They elected us for the especial purpose of restoring the charter to its original form. That was our platform, and I told this man that there was not money enough in the world to induce me to listen to his proposition.”

“Mr. Seibert firmly refused to name the man who had approached him.

“Have you reason to believe that he was authorized by Mr. Sheehan?” he was asked.

“I don’t know anything about that. I cannot say that he was authorized by Sheehan.”

“But you understood that the proposition he made would be backed by him?”

“Well, yes, I suppose so. He was one of the Sheehan fellows.”

“In answer to further questions, Mr. Seibert said: ‘I can say this much, positively; I was told by this man that if I would consent to this amendment, they would let me name the man to run against me in my district next fall.’

“On this proposition Mr. Seibert was immovable.”

By Senator O’Connor :

Q. You are a resident of Buffalo? A. I call Buffalo my home.

Q. Are you the correspondent of the Buffalo Express? A. I am.

Q. Prior to the appearance of an article in the Buffalo Express, did you have a talk with Seibert? A. I did.

Q. Where? A. In the Assembly chamber.

Q. What did he state to you at that time? A. He stated to me the interview in full which was in the Express Tuesday morning; I can repeat it if it is necessary.

Q. State what he said to you? A. I went to Mr. Seibert and said to him, or rather put this question to him: “Is it true or is it not true that you have been approached with a view to influence yourself or the Erie county delegation to favor an amendment to the Buffalo police bills,” and Mr. Seibert then went on and related the instance in the corridor, and told me on the second morning before the Buffalo charter bill passed the Assembly, that he had been approached by a man who met him (I forget whether he called it a proposition or not), but the man approached to speak to him in regard to this amendment to the

Buffalo charter. The amendment he spoke of was one which would change the time when the new police bill would go into effect so that the mayor to be elected next fall instead of the present mayor would have the appointment of the new police commissioners, and leave the present ones in until next year. I think I asked Mr. Seibert who it was had approached him, and he said he did not care to say just now, and I asked him to tell me just what this proposition was and he said this man had said positively, as I recall what he said, that he would have the privilege of naming the man who would run against him in his Assembly district next fall if he would consent to this amendment. He said some other things in regard to the visit of this man which conveyed to my mind the idea that some reference had been made by this man to the matter of money, and so I asked him about the money. Mr. Seibert said: "I cannot say the man offered me money, because if I should say that he would go on and deny it, and would say I misconstrued what he said." He also said: "Of course, this man was a very clever and smooth talker," and Seibert said to me at the time "I cannot repeat this proposition the way the man said it to me, because he said it in such a way I could not catch or remember his words; but he gave me to understand this man made a proposition to him in such an ambiguous way that if he charged him with offering money, he could say that "he misconstrued it."

Q. Have you stated all he said? A. Yes, sir.

Q. Did he attempt to tell you the language the man used? A. No, sir; as I remember it, I tried to get from Seibert a definite statement; and Seibert said the man had said it in such a way that if he said the man offered money, the man could say he misconstrued it; the language was such.

By Senator Lexow:

Q. Then no language was stated to you as having taken place on that occasion referring to money? A. Only what I have said Seibert stated.

Q. The words were such as he would infer there was something in it? A. Mr. Seibert said to me that when he left this man he had the impression that they could have most anything they wanted in Erie county if the members would consent to it.

Q. Did he say anything about there being anything in it? A. I don't know as he used the words "in it."

By Senator McMahon:

Q. Did he convey that impression? A. He said he left with the impression that the Erie county members could have anything they wanted.

Q. Was any amount specified? A. No, sir.

By Senator Lexow:

Q. The impression made on your mind was that they could have money? A. I got that impression, but he stated the proposition was made in such a way that the man would say he misconstrued it.

By Lieut.-Gov. Sheehan:

Q. Did he say to you that he could have money if he would consent to that amendment? A. No, sir; I don't think he did.

Q. You didn't state any such thing as that in your article? A. No, sir.

Q. The gist of the article was that things would be made easy for him next year? A. The gist of my article was that he had offered the privilege of naming the man next fall to run against him if he would consent.

Q. (Paper shown witness.) Is that your interview? A. Yes, sir.

Q. You say in this interview that you do not say anything about Seibert having said to you that he was offered money? A. I don't know.

Q. Did you have any other conversation with Siebert? A. I did; the next day.

Q. Tell what that was? A. Mr. Seibert said that he was in the same position as he was in the day before when he gave me that interview, and that he didn't care to say anything further; I asked him something about making public the name of this man who had approached him, but he didn't think it was proper to do so.

Q. Is that about all the story? A. Yes, sir.

Q. Who was with you when you had the first conversation? A. Mr. Braun.

Q. Were Smith and Bowden near by? A. I don't think they were.

Q. What time of the day was it you heard this? A. About nine or ten o'clock at night.

Q. Where did you go? A. In the Assembly chamber.

Q. Where did you go after you left the Assembly chamber? A. I went to the Western Union Telegraph office to file my copy.

Q. Whom did you see there? A. Correspondents of the New York papers; Mr. Hastings was there, Mr. Murlin and Mr. Richter of the

Staats Zeitung; I would not be positive whether Winslow of the Tribune came in or not, but I think Mr. Meatty of the New York Recorder, and Smith of the Buffalo Times was there that night for the first time.

Q. Did you give them all this interview that you had with Seibert?

A. If any of the reporters came to me and asked me about the interview with Seibert, I may have said to them what he told me.

Q. What is your recollection of whom you did state it to? A. I have a distinct recollection of telling Hastings the substance of the story that was published; Mr. Murlin had an interview with Seibert; I was with him at the time; and Bowden also had an interview with Seibert.

By Senator O'Connor:

Q. Tell us what he told Mr. Murlin? A. As I remember it I went with Seibert; I won't be positive that Murlin was talking with him then, but I saw them both talking with Seibert there, and he, as I remember it, gave Mr. Murlin the substance of the interview he had given me; I don't know what he said to Murlin before I got there.

Q. Have you stated in substance the names of all the newspaper reporters you stated that interview to that night? A. After I had my interview with Seibert, I saw some of the men.

Q. I mean down to the Western Union telegraph office? A. I think I stated it to all the newspaper men there.

Q. Did you talk with Blake of the World? A. I did, before going to the Western Union office; after I got this interview, I went from Seibert's seat down into the well of the Assembly, and there was a number of newspaper men there; Blake was there, and Hastings was there; and I talked with both of them about this interview; and I am quite sure that in that conversation I told them the gist of this interview with Seibert.

Q. Did you say to any reporter that Seibert had told you he had been offered money? A. I stated to them the story I went to the telegraph office with afterwards.

Q. You have known me for a long time? A. Yes, sir.

Q. Was this on Monday night and Tuesday night? A. Yes, sir.

Q. I was in the Senate? A. Yes, sir.

Q. Why didn't you come and say something to me of this? A. The Senate had adjourned before I went over to the Assembly, and besides that, it did not occur to me, as a newspaper man, that it was for me to come to see you.

Q. Had my name been mentioned? A. Only in this particular; when I put the question to Seibert, I said to him: "Was this man who came to you authorized by Sheehan," and he said he didn't know whether he was or not; and I said to him: "Did you understand that whatever proposition this man made would be carried out, and fulfilled by Sheehan," and Seibert hesitated, and said it was one of the Sheehan fellows.

Q. Didn't you use this expression, speaking to Seibert: "Did you understand the proposition he made would be backed up by me?" A. Yes, sir; I guess that is correct.

Q. Is not that a serious charge against me? A. It is no charge at all; I merely asked the question.

Q. You think it was not a charge against the Lieutenant-Governor of the State to ask if this proposition would be backed by him? A. I didn't make any charge.

Q. You say Seibert said "Well, yes, I suppose so; the proposition will be backed by Sheehan?" A. Yes, sir.

Q. You didn't give me the benefit of a denial? A. No, sir.

Q. Are you interested in the police bill? A. I have no personal interest.

Q. Is your paper in favor of it? A. Yes, sir; and all the papers in Buffalo, with one or two exceptions.

Q. Are your articles written in that vein? A. Yes, sir.

Q. You know as a matter of news, that the bill was made a special order for the next morning? A. Yes, sir.

Q. And it was put over on account of the absence of Senator Lamy? A. I knew it was put over.

Q. Did you have in mind at the time you read this article that it would have any effect to influence Senators in regard to it? A. No, sir.

Q. Was any such conversation had in your hearing by any of the reporters at the Western Union Telegraph office? A. No, sir.

Q. You have heard the different testimony here? A. Yes, sir.

Q. There is a serious discrepancy in what purports to be an interview with these gentlemen in the Buffalo Express on February 13th, and the testimony; is that your article? A. Yes, sir.

Q. Mr Brown says that the conversation he had with Seibert on this subject was when Seibert said to him that the people would be willing to pay for it; did you hear that? A. Yes, sir.

Q. Did you mean to charge, directly or indirectly in any of your articles, that I was in any way attempting to influence members of Assembly on the Buffalo bills? A. I meant simply to send to my paper a correct new statement of this affair.

Q. And as I understand you, you meant to give a correct statement of the whole matter which, at least, if true, seriously reflected on my official conduct, and you denied me the right of an interview in my home paper? A. I had no such intention.

Q. Well, is it not a fact? A. I did not solicit an interview, and that very fact would show that I had no such intention to reflect on any one.

By Senator McMahon:

Q. Is it a custom, when you hear such things, to go and get the other side as speedily as possible? A. It is often done.

Q. Is it the custom? A. I don't understand that by virtue of getting these interviews that I had any reason to know who the other side was.

By Senator O'Connor:

Q. These interviews implicated the Lieutenant-Governor as being corrupt; was it not well for you to go to him, and get his side of the case? A. It may have been, although I may say, while it occurred to me, that this was an important newspaper story, and it was my duty to my paper to get every possible thing I could on the matter, and get it full and impartial, and get both sides, I must confess the thought of going to Governor Sheehan did not occur to me; if I had thought I could get anything further on the matter, I should have done so.

By Lieutenant-Governor Sheehan:

Q. This was not sent over the Associated Press or the United Press? A. I don't know.

By Senator O'Connor:

Q. In reporting the matter in the way you did, was it for the purpose of bolstering up the story, and at the same time shut out any denial of it? A. No, sir; I had no object other than this; I am sent here by the Buffalo Express to get the news; I got a rumor of this story, and, if true, it was important to Buffalo; I went to the man I was told could tell me about it, and got the interview, and sent it.

Q. Did you regard the man who told you of sufficient character to put confidence in the statement without giving the public implicated a chance? A. I don't see as there is anything in what he said that would give me any cue as to whom I should go to.

Q. Seibert said he was approached? A. Yes, sir.

Q. And gave you to understand that Sheehan would make the proposition good? A. No, sir; I said to him, "Was this man who came to you authorized by Sheehan?" and he said he didn't know; I think I asked him if the proposition the man made would be carried out by Sheehan, and he said "I suppose so."

Q. In that connection was your question with a direct purpose of implicating the Lieutenant-Governor? A. No, sir.

Q. Didn't you regard that any person reading that interview would regard the Lieutenant-Governor as attempting to influence the members of the Legislature? A. I didn't think so.

Q. If you had thought so you would have given the members of the Legislature an opportunity to deny it? A. I should think so.

By Senator McMahon :

Q. Suppose you had heard a rumor that parties on the other side were trying to use money corruptly to secure the passage of an amendment to the Buffalo charter and the names were given you, would you have gone to them or not? A. It would make no difference to me whatever, but in this case no names were given.

George W. Blake, being duly sworn as a witness in the above entitled matter, testified as follows :

By Senator O'Connor :

Q. Are you a correspondent for the New York World in Albany? A. Yes, sir.

Q. As such correspondent did you read the article published in the World of the date of February 13 and entitled "Lobbyist with \$10,000"? A. Yes, sir.

Q. Did you write the heading for the article? A. No, sir.

Q. The heading for the article was put on down there? A. Yes, sir.

Q. Did you write the article in the New York World dated February 14? A. I did not.

Q. Do you know who wrote that article? A. I do.

Q. Who? A. Mr. Clark.

Q. Is he the correspondent for the New York World? A. He is my assistant.

Q. Before writing the article of the thirteenth instant, did you have a talk with Mr. Seibert? A. I did not.

Q. Whom did you talk with? A. I had a talk with Perley; I don't know as I had a talk with him; I was in my seat, and Mr. Hastings

and Mr. Murlin, and perhaps some other newspaper men were there, and he came down in the well after he had had this interview and stood there and told the story, and I heard it.

Q. Was your information entirely on information you received from brother correspondents? A. Yes, sir; entirely.

Q. Did you take any means of finding out whether the statement about the use of money was true? A. I did not.

Q. You based your article on what you had heard? A. Yes, sir.

Mr. Sheehan here read article from New York World of February 13, 1894, as follows :

“LOBBYIST WITH \$10,000.

*Hints to Republican Legislators that Buffalo Charter Bills are Worth Killing.*

OFFERED TO AN ERIE ASSEMBLYMAN.

*Senator Bradley's Desire for a Change in one Bill may give Another Chance for Temptation.*

(Special to the World )

Albany, Feb. 12.—An interesting story of attempted bribery circulated through both branches of the Legislature to-night. It was to the effect that while the Buffalo charter bills were pending in the Assembly, one of the Republican Assemblymen from Erie was served with a personal notice that if he opposed the bill he would be amply rewarded, and that if he was a candidate for re-election next fall he would be permitted to name his Democratic opponent. It was also intimated to him that if it cost \$10,000 to defeat the bills the money would be forthcoming; also, it was said that the defeat of the police bills was especially desired, and that if this was accomplished the others might be permitted to go through.

It was understood that the person who made these flattering overtures to the Assemblyman was acting with the knowledge that Lieutenant-Governor Sheehan could be easily induced to guarantee the carrying out of every pledge.

The Assemblyman who had this conversation with the lobbyist admitted all these things to-night. He said that after the fellow had unbosomed himself he told him plainly that no honest man could enter into any agreement that had for its purpose the defeat of the charter bills.

There is reason to believe that other Republican members of the House were approached in a similar manner, but no arrangement was made, for all of the bills passed, though the police bill got through with only five votes to spare."

Q. You got your information from Perley? A. From Perley and three or four other reporters.

Q. Did anyone ever tell you that \$10,000 had been raised to defeat the bills? A. I don't remember.

Q. Was it Mr. Perley who was the most interested of the Buffalo papers? A. He didn't come to me at all. These men were gathered in front of my chair in the Assembly, and told this story.

Q. You found out who the reporters were who talked with Seibert? A. Yes, sir; they were Brown and Perley.

Q. Did Brown or Perley say \$10,000 had been raised to defeat these bills? A. That was my information, that they would get \$2,000 apiece.

Q. Did you know that Perley never said anything in his paper about the \$10,000? A. I did not.

Q. Wouldn't the average man, upon reading that article, believe that \$10,000 had been raised, and that Sheehan stood behind it for the purpose of paying the money if necessary? A. I refuse to answer that question.

Q. Why? A. I refuse to answer that question.

Mr. Sheehan requested the committee to direct the witness to answer.

The Committee held that the witness could not be compelled to give an opinion.

Q. Why did you make that charge? (Question withdrawn.)

Q. You were down in the Western Union Telegraph office that night? A. No, sir.

Q. Are you a member of the Legislative Correspondents' Association? A. I am.

Q. Who compose that association? A. I cannot mention the thirty or forty names.

Q. Representatives of all papers? A. All the reputable members.

Q. And every person who is not a member is disreputable? A. That is an opinion again.

Q. Did you start that when you came here for the purpose of opposing particularly any officers of the Senate or Assembly? A. Certainly not.

Q. Have you had any directions to do any such thing? A. Certainly not.

Q. Do you recollect Senator O'Connor rising to a question of privilege on an interview in the New York World, in regard to the bi-partisan election bill? A. You have an idea that the Legislative Correspondents' Association here is controlled by three men, and that these three men dictate what shall be done.

By Lieutenant-Governor Sheehan:

Q. I have no such idea.

The Witness — These stories that are put in the papers in regard to that are all a lie.

Q. Did you not state the evening upon which Senator O'Connor arose to a question of privilege on this bi-partisan election bill, that you and the other reporters ought to combine for the purpose of driving him out of public life? A. No, sir.

Q. You never inquired, for the purpose of ascertaining in any way, shape or manner if any of these charges were true — you never spoke to me about them? A. I explained that I did not get through until 10 o'clock that night, and in the winter time we want to get our stories off as early as possible; it is our duty to our papers, and I go straight to the office to get my story on file; the Assembly had adjourned, and you were not in the Senate; in the winter time the wires are apt to be burdened with snow and ice, and we take means to get our news in as quick as possible; if it had been otherwise I think I should have gone to you.

By Senator Lexow:

Q. What is the object of your association? A. It is to prevent persons coming in here who say they are reporters and then lobby for certain bills; we have been sometimes discredited on that account; there is a man here now who would not come into the association.

By Senator O'Connor:

Q. You say that he is on the floor? A. Yes, sir.

Q. Who is he? A. I don't want to tell that.

Adjourned until Thursday, February 20, 1894.

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Hearing continued, February 20, 1894.

Present, Senator O'Connor, chairman, Senators Saxton, Pound, Mullin, McMahon and Lexow.

Henry S. Brown, being duly sworn as a witness in the above entitled matter, testified as follows:

By Senator O'Connor:

Q. Are you a reporter for the New York Herald, here in Albany?

A. Yes, sir.

Q. Did you hear anything about this alleged attempt to corrupt members of the Legislature? A. I heard something about it.

Q. State what you heard about that matter; did you talk with any of the witnesses who testified on the previous hearing in regard to it?

A. Yes, sir; Mr. Seibert.

Q. What did he say to you? A. Mr. Perley, the correspondent of the Buffalo Express, has given a very accurate report of the conversation, as I recollect it; Mr. Seibert said he had been approached by some one from Buffalo, who wanted to find out if he and the other Buffalo members would accept an amendment to the bill, which would allow the present commissioners to hold office until the next mayor was elected, and he said the proposition was that he could have the naming of the man who would run against him next fall; that it would make it easy for him if he would favor such an amendment; I asked Mr. Seibert whether there had been any offer of money to him to accept such an amendment as was desired, and he said he could not say there had been any such offer but there had been a talk of money in a vague way; he said he could not swear there had been an offer of money, but it seemed that way to him; such a talk as to how it could be made worth while to the members to accept the amendment; that was about all that was said; I have given briefly the substance of it.

By Mr. Sheehan:

Q. You talked with some of the other reporters; did you go to the telegraph office with them? A. May it please the committee I would like to have the privilege of asking the Lieutenant-Governor questions on this matter; if that is the understanding that I can ask him questions, I will be willing to testify.

Mr. Sheehan states that he is willing to have the witness ask him any questions he desires.

Q. Were you at the telegraph office? A. I was at the postal telegraph; Mr. Whish, my assistant, was there; I do not recollect any others.

Edwin L. Merlin, being duly sworn as a witness in the above entitled matter, testified as follows :

By Senator O'Connor :

Q. Are you a correspondent of the New York Tribune ? A. Yes, sir.

Q. Do you reside in Albany ? A. Yes, sir.

Q. I show you an article published in the New York Tribune, dated Albany, February 12, and excepting the heading of that article, it is your article ? A. Yes, sir.

Article offered in evidence and received and marked Exhibit "1" of February 20, 1894. L. A. W. S.

(Article.)

#### RESORTING TO BRIBERY — SHEEHAN'S BIDS FOR VOTES.

*Desperate Efforts to Beat the Home Rule Bills — He Offered Assemblymen Valuable Considerations to Do His Bidding — Failing There, He Turned His Attention to Weak-Kneed Senators — Holding the Bill from the Governor.*

ALBANY, Feb. 12, 1894.—William F. Sheehan's lieutenants are apparently willing to take desperate means to defeat the bill restoring to Buffalo her home rule rights. It is now suspected, with good reason, that an attempt will be made to defeat the bill by the bribery of the Senators. Mr. Seibert, one of the Republican Assemblymen from Buffalo, made the important statement to-night that one of Sheehan's agents offered to guarantee a re-election if he would consent to an amendment being made to the bill restoring Mayor Bishop his authority to name police commissioners by which the Sheehan police commissioners should be continued in office. It is also known that one of the Buffalo Assemblymen received proffers which he could only interpret as an offer of money for himself and his Republican colleagues, if they would amend the bill so as to retain in office throughout this year the Sheehan police commissioners. One of these commissioners, Augustus F. Scheu, was here all last week attempting to get such an amendment made to the bill. Mr. Scheu is a member of the Democratic State committee, which is reported to have an emergency fund for use on just such occasions as this. But Mr. Scheu failed to get the bill amended in the Assembly. Now he must succeed in the Senate or the bill will reach Governor Flower, and he may sign it. The bill will come up for a final vote in the Senate to-morrow. Senators Coggeshall, Owens, Reynolds and Robertson now say that the pairs made with Democratic Senators last Thursday, are off.

Mr. Sheehan now thinks he has ranged Senator Bradley, the Independent Democrat from Brooklyn, on his side in opposition to the bill. Mr. Bradley said to-night that he favored an amendment giving Mayor Bishop merely the authority to name the police commissioners until the end of the year. This would displease the Sheehan commissioners. Sheehan, however, would welcome the amendment to the bill, since it would give him the chance to say to Governor Flower that the bill did not restore the charter of Buffalo to the shape in which it was in when he violently changed it by legislative enactments last year. Senator Saxton does not despair of passing the bill just as it stands. If it is defeated by bribery the public will be made aware of the fact. On Thursday last two of the Buffalo restoration acts were passed by the Senate, and were taken to Lieutenant-Governor Sheehan's room for his signature. Senator Lamy of Buffalo asked him to sign the bills at once. "I have twenty-four hours to sign the bills," replied Sheehan, "and I mean to take them." But he kept them more than twenty-four hours, and they were not returned to Clerk Kenyon until this evening. Sheehan, therefore, has held the bills away from Governor Flower for four days; for they cannot reach him now until to-morrow.

Q. Will you briefly give the committee a statement of the information or conversation upon which this article was based? A. I was in the Assembly chamber, in the well, and had just come over from the Senate chamber, and was standing there in front of the row of reporters, when Mr. Brown and Mr. Perley came down there, and if I remember it correctly, Mr. Perley said, "I have got a big story for Buffalo to-night," and Mr. Brown said, "Yes, a thundering big story for the whole State." Other reporters were there, and it came out that Mr. Brown had heard some story of bribery somewhere in the Capitol that night, and had gone to Perley and said he didn't know the Erie county Assemblymen, and that he heard there was an attempt to bribe them in regard to the Buffalo bills. I wish you would take me and introduce me to some of your Buffalo Assemblymen, and I will investigate along the line, and Brown said the first man he struck was Seibert, and he told them this story. I then went to Seibert myself, and told him the statement was made that there had been an attempted bribery, and he told me what I put in the Tribune. This was entirely founded on the above statement.

Q. Was there anything said in the conversation in which the names of Senators were referred to in connection with that question? A. No sir; nothing definite.

Q. That was the inference you drew from the situation? A. Yes, sir.

Q. How so? A. Well, it was being attempted in the Assembly, and I was afraid that it would be attempted in the Senate.

Q. That was a decision or conclusion arrived at from the information you received and from your own knowledge of the situation in Albany? A. Yes, sir; that is all.

Q. What was it that led you to believe that this matter was in charge of Governor Sheehan's lieutenants? A. I inquired of Mr. Seibert, who had come to him, and he said that he did not care to state; he finally murmured one of the Sheehan gang; that was my information; I knew Mr. Sheehan had a great many friends here hard at work to defeat the bill, but I made no inquiry of Mr. Seibert in regard to any alleged connection of Mr. Sheehan with this matter; I did not suppose anything of the kind, and there was no reason why I should put it in; the headlines I had nothing to do with, and I very deeply regretted it the next morning when I saw them.

Q. Your information that you got from Seibert, and your article, was based entirely upon what Seibert had said? A. Yes, sir; precisely.

Q. Do you know, of your own personal knowledge, of any efforts being made to defeat the bill, or of legislation, by corrupt means, other than such as arose out of the conversation with Seibert? A. I do not.

Q. The whole matter rests on the statement of Seibert? A. Yes, sir, precisely; my whole statement was founded on that conversation.

Q. And you gave that as current news here in Albany? A. Yes, sir.

Q. He was known to you as an assemblyman? A. Yes, sir.

By Mr. Sheehan:

Q. You take a great interest in the passage of the Buffalo bills, so called? A. I do; very great.

Q. Do you represent the Buffalo Courier? A. I do.

Q. [Paper shown witness.] Is that one of your articles? A. Yes, sir.

#### A DESPERATE GANG.

**Any Means to Defeat the Buffalo Police Bill — A Startling Revelation.**

*Attempts to bolster the falling Sheehan, caused by bribery — Assemblyman Seibert's story — The event of to-day.*

Albany, Feb. 12 — (Special). It was revealed to-night, from a statement made by Assemblyman Seibert, that something more solid

than words will be employed, if possible, to defeat the bills restoring to Mayor Bishop, of Buffalo, his authority to name the police commissioners of that city. Police Commissioner Scheu came here a fortnight ago, and became quite a familiar figure in the lobby, with his big diamond, and his perpetual smile. Some people absurdly took him for a lobbyist. He did manifest a good deal of interest in the Buffalo Police Bill, but otherwise he can be acquitted of having any interest in legislative matters. The comical story was told that his friends was grieving over the mortification he would feel if deprived of his police commissionership, and that he was willing to give up all his salary, if necessary, to retain his position. The other police commissioners, also, it was said, were willing to give up their salaries if they could retain their places. This would amount to several thousand dollars, and shows that public-spirited men live in Buffalo who will serve the public for nothing. It was about this time that Assemblyman Simon Seibert had an odd experience. "I was out in the lobby one day, about two days before the Buffalo Police Bills was to be acted upon in the Assembly," he said to-night "when a man spoke to me. He desired to have the police bill amended in such a way that the mayor of Buffalo, who will be elected this fall, should have the appointment of the police commissioners, and not that Mayor Bishop should have their appointment. Furthermore, he desired me to talk with the other Buffalo assemblymen in favor of this proposition. From his language, I inferred that money would be paid us, although the offer was made in such an artful way that two interpretations could be put upon it." "What did you say to this lobbyist?" "I replied at once that I could not listen for a moment to such an offer, and that I was confident the other Buffalo assemblymen felt as I did. I said to him: 'Why, if I should consent to such an amendment I would be shot if I went back to Buffalo.' The people of Buffalo would not stand it. They elected five assemblymen and two senators for the express purpose of restoring the charter to the form it had before Mr. Sheehan altered it. There is not money enough in the world to tempt me to vote for such an amendment as you propose.' Mr. Seibert also made this interesting statement: "I was told by this man that if I would consent to this amendment, keeping in office the Sheehan police commissioners, they would let me name the man to run against me in my district next fall. Of course that meant that they would permit me to name a weak Democrat and virtually give me the district."

"Who was this man who thus approached you with this bribe?" "I must decline to state," said Assemblyman Seibert, "but it is sufficient to state that he was one of the Sheehan gang."

"Was it Mr. Scheu?" "No, it was not Mr. Scheu."

Mr. Seibert was tackled, it is said, because he is president of the Sprudel Fishing Club, of which several of the leading Sheehan men are also members. The Buffalo police bill will come up for a final vote to-morrow.

Q. And also the one dated the next day? A. Yes, sir.

### IT LOOKS VERY BLACK.

**Futher Developments in the Boodle Campaign.—Against the Queen City.**

*All of the Republican Assemblymen "Approached" in Connection with the Buffalo Police Bill—Seibert Stands by His Statement.*

ALBANY, February 13 (Special).—William F. Sheehan evidently thinks that certain plans of his to induce three or four Republican Senators to vote to amend the Buffalo police bill in his interests have been seriously interfered with, and that the newspaper correspondents are the men who have thus hindered the fulfillment of his plans. What was especially embarrassing was the publication by the newspaper men of the remarkable pairs of four Republican Senators with four Democratic Senators last Thursday, by which the passage of the bill restoring to Mayor Bishop his right to appoint the police commissioners of Buffalo, was prevented, and then followed the publication to-day of Assemblyman Seibert's statement that "One of the Sheehan gang" had made him an offer in the lobby of the Assembly which he could not but interpret as an offer of money if he would vote for an amendment prolonging the term of the Buffalo police commissioners until January next. This was followed up to-day by a still stronger smell of money, the four other Republican Assemblymen from Erie declaring that they had been sounded on the subject of voting to amend the police bill and that they had interpreted what was said to them as an offer of money. All these Assemblymen like Mr. Seibert declined to have anything to do with such an amendment of the police bill. Mr. Whittet said to-day that he understood money would be paid to him if he would vote in favor of the suggested amendment. "I made no inquiries," he said, "as to the source of this money. I rejected the proposition at once."

Assemblyman Schoeplin said "that he understood money was to be paid him if he should vote in favor of the amendment. I suppose the money would come from the Sheehan crowd," he said.

Assemblyman Braun also understood that money was to be paid. "I asked Mr. Seibert about the source of this money," he said, "and he replied that he did not know. I understood that \$2,000 each was to be paid. I thought Seibert was joking about the matter and paid no further attention to this matter until the publication of the interview with him this morning."

Assemblyman Gerst said he was told there was money to be had for voting for the police bill amendment. Assemblyman Seibert went to Speaker Malby this morning and told him that the newspaper accounts of the attempt which had been made to influence him to vote to amend the Buffalo police bill were correct and he would stand by them. The Buffalo Assemblymen had shown in this matter that they can not be "reached" by any proffer of money to amend the police bill. Lieutenant-Governor Sheehan apparently felt bound to make a demonstration against the newspaper men who have attacked him for attempting to keep John McCarty in the Senate, and who have criticised him for leaving his seat in the Senate chamber and working to defeat the police bill. No Lieutenant-Governor before has so labored upon the floor of the Senate chamber to pass measures or defeat measures. William Dorsheimer, as Lieutenant-Governor, never considered himself a member of the Senate and worked actively for or against bills, as Mr. Sheehan does. Nor did George G. Hoskins. Even David B. Hill took a dignified position when Lieutenant-Governor. When not presiding over the Senate he was in his own room. He was not moving about among the Senators as Mr. Sheehan does. Lieutenant-Governor Jones also refrained from participating in the legislation of the Senate. But Mr. Sheehan, unluckily for himself, came straight from the Assembly into the Senate, and therefore apparently he sees no impropriety in a mere presiding officer meddling actively with legislation in the Senate. He therefore labors like any Senator in this matter of the Buffalo police bill, and when the newspaper correspondents comment upon his doings he is indignant. But it is the general impression to-night that the attack which he made upon the newspaper men to-day was for the purpose of raising a cloud of dust, under cover of which he may be able to get three or four Republican Senators to vote for an amendment of the police bill. Any Republican vote which Mr. Sheehan may thus obtain can not but be looked upon with suspicion, and the inquiry naturally will be made how it was obtained, for the Republican Senators in caucus last week resolved unanimously to support the Buffalo police bill and to support it just as it stands. Mr. Sheehan's personal influence over new Republican Senators can not be

great, and yet it is Republicans new to the Senate whom it is declared he has induced to consent to a modification of the Buffalo police bill. What magic has he exercised, if this rumor be true?

Q. Is this also one of your articles? A. Yes, sir; that article in the New York Tribune was written before this other matter.

Q. Was it not written afterwards? A. Yes, sir; I think it was because it refers to your speech.

Q. Mr. Sheehan reads from article, "It is now suspected that an attempt will be made to defeat the bill by bribery of Senators" take that whole article, that whole communication and read it through, why—

Question stricken out.

Q. What reason did you have for the statement that you made which I have read? A. I thought if an attempt was made to bribe Seibert and some Assemblymen, an attempt would be made to bribe Senators.

#### SHEEHAN IS SENSITIVE.

##### An Investigation of the Correspondents Charges Ordered.

*Pathetic Appeal of the Lieutenant-Governor to the Senate.—His Appreciation of Criticism of the "Square, Honest" Variety.*

Albany, Feb. 13.—(Special).—William F. Sheehan has lost all patience with the newspapers. His mighty spirit can no longer endure what they say about him. Their attacks upon him because he defied the Republican Senate and attempted to keep within its fold a Democratic Senator elected by fraud were hard to accept in a Christian spirit. And then the newspaper correspondents dare to look with their eyes and notice him working among Senators to prevent the passage of the bill restoring to Mayor Bishop, of Buffalo, his right to appoint the police commissioners of Buffalo. Everyone must know that this bill is Mr. Sheehan's pet aversion; it deprives him of his possession of the police department of Buffalo, and the opportunity to use it at the polls at the coming fall election. "Why is the Republican Legislature insolently striving to restore to Buffalo her home rule rights and to take away from me this political power?" This is a question Mr. Sheehan no doubt has frequently asked himself; nevertheless Mr. Sheehan was making some progress in his efforts to prevent the passage of the Buffalo police bill. On Thursday last he had contrived to persuade four obliging Republican Senators to make a pair with four Democratic senators who had been sent away from the city, and thus the passage of the bill was prevented on that day. Mr. Sheehan always contests a bill to the last ditch, and he redoubled his conversation with Republican Senators about that Buffalo

police bill. It was just at this time that an awkward thing happened. Assemblyman Seibert, one of the five Republican assemblymen from Erie county, publicly stated that just before the bill passed the Assembly, "a member of the Sheehan gang" met him in the lobby and said something to him which he could only interpret as an offer of money if he would vote against the bill. Moreover, as Mr. Seibert frankly stated, the promise was made to him that he could pick out his own Democratic opponent at the next election for assemblyman, thus giving him the chance to name a weak man. Practically this was an offer of fifteen hundred dollars in the form of an assemblymanship. This statement of Mr. Seibert's was reported in the Tribune and other New York newspapers this morning, and thereupon Mr. Sheehan betrayed great annoyance and anger. Finally, after he had considered the matter for some time, he clearly decided that he had better attack the newspaper men for what they said about him at the time he was resisting the expulsion of John McCarty from the Senate. Such an attack, he perhaps reasoned, would divert attention from his present attempt. After apparently fully deciding that his best way of concealing any capture of votes from the Republicans would be to attack the newspaper men. He ascended his pulpit in the Senate chamber and made the following speech. .

Q. Mr. Seibert did not use the person's name to you? A. No, sir.

Q. And it does not appear in your article? A. I cannot state what Mr. Seibert said to me outside of that article. Mr. Seibert said to me when I asked him whether money had been offered, that a sentence had been used to him that could be interpreted in two senses; that it was very cunningly put, that it could be interpreted as money or not; he further said if he should charge that these men offered money, the men would laugh and say they did not mean it; he said what was offered him was a re-election as Assemblyman, an undisputed re-election to the Assembly; he said he would swear to that; that an attempt was made to induce him to vote for that amendment and he could have a re-election to the Assembly.

Q. Who made that proposition? A. One of the Sheehan gang.

Q. In your article in the Buffalo Courier, you had stated that it was a lobbyist, is that true? A. I do not remember.

Q. At the end of this article in the Tribune, you also say "If the bill is defeated by bribery, the public will be made aware of that fact;" were you trying to convey the impression to Republican senators that if they should vote for that amendment to that bill, that they would be suspected of bribery, and for that reason they would not vote for it?

Question overruled.

Q. Did you state in the telegraph office that night, that the publication of these charges would drive back in line the Republicans who wanted to vote for the amendment? A. I did not so state.

Q. Before any person? A. Before any person.

Q. Or in any place? A. No, sir; Mr. Sheehan, we were especially careful that night, because a certain man came up in the telegraph office, and Mr. Hastings turned to me and made rather a strong remark, as you remember Mr. Hastings is an Irishman, and hates informers; he turned to me and said "we will have to be careful, one of Sheehan's spies is present."

Q. To whom did he refer? A. I do not know, but we were careful after that, and were very guarded in our talk.

Q. Who were present? A. Mr. Perley, Mr. Richter, Mr. Hastings and Mr. Smith, of the Buffalo Times.

Q. Who else? A. I do not remember that anybody else was there that night.

Q. Did he refer to Mr. Smith? A. I don't know to whom Mr. Hastings referred; after his statement, I thought, in view of all the circumstances of the case, that we had better be guarded in our talk.

Q. Did you gather there for a conference? A. No, sir; we did not gather there for a conference; we went there to put our matter on the wire with as great expedition as possible.

Q. Were all the reporters who travel together there that night in consultation? A. No, sir; not in consultation.

Q. You talked over the substance of this matter? A. Not in the slightest degree in that way.

By Senator Saxton:

Q. Was there any concert of action agreed upon? A. No, sir.

Q. You had all got this same story from the same source? A. Yes, sir.

Q. And your duty there was to prepare your copy and send it off? A. That is all.

Q. Did you consult together on the language you would use? A. No, sir.

Q. Did you consult together in regard to any particular course or concert of action? A. We did not; and we have not on any other matter this winter.

Q. I have seen it charged in the Albany Argus and other papers that there is a concert of action between the correspondents of the New

York Times, World, Herald and the Tribune by which you agree together upon a certain course of action; that you agree to write certain persons up and also to write certain persons down; I want to know whether there is any such concert of action, so far as you know of?

A. There is not, so far as I know of.

Q. Has there been any agreement, so far as you know of, to write up certain people and certain matters of legislation? A. There is not.

Q. Or to cry down certain people? A. There is not; it was laughable to me the morning the Argus was published to read that statement; the man I was said to be decrying, Senator O'Connor, had an article in the Tribune that very morning of over a column in regard to the bi-partisan election inspectors bill.

Q. I see here that it is stated that you had decided to attack O'Connor; I would like to know if there has been any talk of that kind, so far as you know? A. There is not; I reside on Swan street in this city and I very rarely see Hastings of the Times or Blake of the World; they reside at the Hygeia and write their stories there, and I write mine at my residence; I am the president of the Reporters' Association and we have had one meeting this year or winter; the object of the association is to keep off the floor of the Senate and Assembly lobbyists in the guise of newspaper men; we had one meeting this year and Senator Saxton and Speaker Malby submitted to us a list of correspondents; we wanted to know who were eligible correspondents; in regard to any apparent coincidence of action on such a matter as the McCarty matter or the Buffalo Police bill being put through, those matters were not confined to these three papers mentioned, but every paper in the State discussed it.

Q. You say that your association has had only one meeting this winter? A. Only one.

Q. When was that? A. The second week in January.

Q. Were any questions of legislation or any question as to any other matters in the Legislature discussed at that meeting? A. There was not; I have seen it in some papers that we have solicited legislative patronage; I wish to say that I never have.

Q. The story as told by Mr. Seibert, if one paper published it and the others would not, would it be a matter of reflection upon the newspaper correspondents who did not? A. It would; our editors would say immediately, why didn't you get that story.

By Mr. Sheehan :

Q. Is it not true that a number of you gentlemen who represent newspapers get together sometimes during the day with the purpose

of discussing what you will send out over the wire that night? A. No, sir.

Q. How is it that for a long time the leading New York journals contained the same subject matter from day to day? A. They didn't; I think the New York Times and the New York World contained a good deal about Mr. Platt that you never saw in the New York Tribune; and in other matters where these papers have agreed it has not been on account of a deal or talk between Hastings and Blake and myself, but that it was on matters in which the newspapers were interested; for instance: the expulsion of McCarty; the policy of all these three papers was identical on that question; I very rarely see Mr. Blake or Mr. Hastings.

To Mr. McMahon:

Q. These conversations that you had with Seibert took place, as you understand it, how soon after his talk with the party who had approached him? A. Some two weeks after.

Q. And that was the reason of his indefiniteness, in his remembrance of the conversation? A. Yes, sir.

Q. Did he convey the idea to you that he understood the effort at that time as an attempt to influence his vote improperly? A. He did.

Q. I call your attention to this testimony of his, "You understood that that was an attempt to influence your vote on that question;" "I didn't pay much attention;" "I didn't consider it was at that time;" he conveyed that impression to you at that time? A. Yes, sir; he did.

William McMutrie Speer, being duly sworn as a witness in the above-entitled matter, testified as follows:

By Senator O'Connor:

Q. You reside in Albany? A. Yes; here and in New York.

Q. You are one of the editors of the Albany Argus? A. Yes, sir.

Q. You heard of the publication of the attempts of bribery? A. Yes, sir.

Q. Is that the first information you had about it? A. Yes, sir.

Q. Did you know of any attempted bribery in connection with the Senators? A. No, sir; I do not know of it, with the exception of what was published in the papers.

Q. Your knowledge was confined to what you saw in the papers? A. Yes, sir.

Q. Did you have any talk with the Members of Assembly from Buffalo? A. No, sir.

By Senator Saxton:

Q. You are the editor of the Albany Argus? A. Yes, sir.

Q. (Witness shown an editorial.) Did you write that? A. Yes, sir; I am responsible for it.

Q. I notice that you say there that the testimony of the reporters before the judiciary committee was fully corroborative of the charges in the Lockport Sun; that a combination of the reporters existed. A. Yes, sir.

Q. What testimony did you refer to? A. I sat here and listened to all the testimony and referred to it all.

Q. Can you state in particular anything that induced you to believe a combination of that kind existed? A. I referred to their meeting in the telegraph office that night.

Q. They testified that they were that night to send off their dispatches; was that evidence of a combination, do you think? A. I think it was evidence of a combination that night.

Q. What was it that made you think that a combination existed between certain reporters of certain newspapers in regard to writing up certain accounts of legislation? A. I have known of the existence of that for some years.

Q. I ask you what there was in the testimony that made you think that? A. They stated that they decided to write certain things about Sheehan.

Q. And, therefore, you say you thought a combination existed, of certain newspapers and reporters, to attack Mr. Sheehan? A. I understood the testimony was like that as was given by Perley and Blake and Brown.

Q. Because they agreed to their story you inferred that there was a combination to attack certain men? A. I regarded that as proof that night.

Q. You are a correspondent of the New York Sun? A. Yes, sir.

Q. (Paper shown witness.) Did you write that article? A. Yes, sir.

Q. You stated in that article that those reporters who made that combination had charged that Sheehan had \$10,000? A. Yes, sir.

Q. What article did you refer to as having made that charge? A. The New York Times, World, and especially the Tribune.

Q. Did you see that in the New York Times? A. Directly in the Tribune, and indirectly in the Times and World.

Q. I call your attention to an extract that I have here and ask you to read it; is that yours? A. Yes; I think it is the same article; my editorial.

Q. You state in your article that these charges were made by the Times, the World, the Tribune and the Buffalo Courier for the purpose of making the Republican Senators vote for the Buffalo bills; where are any charges made that the Lieutenant-Governor was trying to buy Senators with the \$10,000? A. That charge was made in the Tribune by indirection, and in the World, Times and Courier.

Q. Is it a fact that that was an inference drawn by you? A. Yes, sir, it was, and a fair inference in the papers; as a matter of fact these charges were not made in the New York Times and World, it was in the Tribune, plain enough; I can read it no other way.

Q. Then you say the charge was made that the Lieutenant-Governor had \$10,000 and was trying to buy the Republican Senators on the Buffalo bills? A. Yes, sir.

By Mr. Merlin:

Q. Can you find anything about \$10,000 in that article? A. I think I can find all these facts; here I find on page 2 of the book shown me two clippings, one from the New York Tribune, of February 13, and from the New York World I find this statement: "William F. Sheehan's lieutenants are apparently willing to take desperate means to defeat the bill restoring to Buffalo her home rule rights. They now suspect, with good reason, that an attempt will be made to defeat the bill by bribery of Senators," And in the New York World, the heading starts with, "Lobbyists with \$10,000. Hints to Republican Legislators that the Buffalo charter bills are worth killing." Also an interesting story of attempted bribery circulated through both branches of the Legislature to-night. It was to the effect that while the Buffalo charter bills were pending in the Assembly one of the Republican Assemblymen from Erie was served with a personal notice that if he opposed the bill he would be amply rewarded, and that if he was a candidate for re-election next fall, he would be permitted to name a democratic opponent. It was also intimated to him that if it cost \$10,000 to defeat the bills the money would be forthcoming." I regard that as a charge that the Lieutenant-Governor had \$10,000 to defeat the bills and to bribe Senators; in my opinion the article is unmistakable.

Q. Did you state in this article, in the Argus article, that the reporters have agreed to attack certain persons; do you know whether such an agreement is a formal agreement? You were not present when such an agreement was made? Have they told you that such an agreement was made? A. They told me so in part. The formal agree-

ment was the statement that a formal and definite understanding existed. I do not mean to say it was written out.

Q. You think there was a formal agreement? A. Yes, sir.

Q. Do you know of your own knowledge that such a formal agreement was made? A. I would not say that I had sufficient knowledge to testify in court that such an agreement was made, but I believe it.

Q. You are not a member of this association? A. I am not.

By Senator Mullin :

Q. What was the character of this agreement? A. That the members of the papers I referred to, were to get together, first (and act together) for the getting news for their papers and have all the news of the Legislature, and also for the purpose of increasing their influence. They were to show favor to some people, and hostility to some people. For instance. The Tribune should not attack a man whom the World and Times were friendly to, and conversely.

Q. You say you were at one time a member of this association yourself? A. I was in the combination in 1887 and 1888. I got out in 1888.

Q. And the object of this association was to increase the influence of the reporters? A. Yes, sir.

By Senator O'Connor :

Q. You say you belonged to that association in 1888? A. There was not the same association then that there is now.

Q. Have you continued actively in the newspaper business ever since? A. Yes, sir.

Q. Have you been here at Albany during the session of the Legislature? A. I was here, except in 1892, when I was here part of that.

Q. What years were you not here? A. I was not here in 1889, as I was secretary of the World's Fair committee then.

Q. You were here in 1892 and 1893? A. Yes, sir.

Q. And during all this time have you been connected with the newspaper business? A. Yes, sir.

Q. And have known the reporters? A. Yes, sir.

Q. Do you say that the same combination now exists? A. I have always understood so; it always has existed.

Q. It has for its purpose the writing up of some men and the writing down of others? A. The purpose of the association is to make reporters in the combination men of more influence and power by working together than by working alone; treating an injury to one as an injury to all.

Q. Did your combination meet? A. Yes, sir; at different times.

Q. Does that go on now? A. I understand so.

Q. In answer to some question asked you by Senator Saxton you say you have heard the testimony of the witnesses here; did you hear the name of Lieutenant-Governor Sheehan mentioned by any Assemblyman, excluding Seibert, that he was connected with this matter? A. No, sir.

Q. Did you observe anything that would go to show that Mr. Sheehan was connected with it? A. I regarded one statement or any statement as to his connection with the matter as pure invention; Mr. Seibert's testimony and the others showed a great variance.

By Senator Lexow:

Q. Do you mean to say you were a party to an agreement to write up and write down any man? A. I was in the combination in 1888; I got out because I was in the minority all the time.

Q. What lead to the writing of these articles? A. I got what was in that article from the articles themselves and from conversations I heard in the Assembly chamber.

Mr. Sheehan:

Q. In speaking of this association or combination that existed in 1887 and 1888, what reporters were members of that combination then; who are the reporters for New York papers now? A. Spinney, of the Times, Hastings, of the World, Mr. Murlin, of the Tribune, Mr. Alford and myself; if I could have been in the majority of the combination my views would have been different; I have no attack to make on the combination, but it was in the hands of people who were my political enemies.

By Senator Lexow:

Q. Do you think the principle of that combination was right? A. I do.

Q. To write up and write down certain men? A. It increases the power of newspapers.

Q. Then, according to your statement, the combination is for the benefit of the newspapers, and you don't care a snap for the men? A. We look out for ourselves.

Q. Do you think it is fair to the men? A. If a man is a friend of mine, I don't.

Q. You defend Sheehan because he is a friend of yours? A. Yes, sir; and he is right in this and the others are wrong; but I would stand by a friend if he were wrong or right; but in this case he is right.

By Mr. Blake:

Q. How long has this legislative combination been in its present shape? A. I do not know; it has existed since my recollection.

Q. Don't you know it was born last year? A. The combination or association of all the correspondents was born recently; the other was before your time.

Q. The purpose of your combination was to injure some persons and help others? A. No, sir.

Q. What is the purpose of the present association? A. I suppose it is the same as the other.

Q. Why didn't you join the association? A. I didn't care to.

Q. What was the reason that you gave that you told to a certain man? A. I told him the association was making certain rules and that I did not care to be bound by them.

Q. What rule was it? A. What?

Q. What rule was it; didn't you state that you were not eligible as a member because you were interested in legislation? A. Oh! I said I did not propose to be bound by the majority.

Q. Were you interested in legislation last year? A. No, sir.

Q. Were you not interested in a bill last year? A. I was interested in a bill, but I got out of it.

Q. Don't you know we would not have you in the association as long as you were interested in a bill? A. I don't; I was asked twice to join.

Q. Was not that before we knew about the combination between yourself and Senator Sullivan? A. Mr. Blake, I have got to draw the line somewhere in answering your questions. If I was as interested in legislation as you were last year, I would not ask such questions; you had three bills here.

Q. What were those bills? A. I do not care to name them.

Q. Did you ever write any stuff for the Lockport Sun? A. I didn't.

Q. Why did you print that article in the Sun, was it because you thought it was true? A. Yes, sir, and it was interesting news.

Q. Did you ever have any talk with Mr. Sheehan in regard to the association? A. Yes, sir; often.

Q. Did you ever tell him they were combined for that purpose? A. Yes, sir; often.

Q. Did he ever suggest to you that you print the story? A. No, sir.

Q. Do you know anything about the relations between Mr. Smith of the Buffalo Times and Mr. Sheehan? A. I do not, except that they are friends.

Q. Mr. Speer, do you know who is the correspondent for the Lockport Sun? A. I do not.

Mr. Blake recalled:

By Senator Saxton:

Q. You heard the testimony of Mr. Speer? A. I did.

Q. In regard to the combination existing between newspapers and reporters of the New York World, Times and Tribune? A. Yes, sir.

Q. Is there such a combination or agreement of any kind between the reporters of those papers? A. The only agreement the association has is to keep out of the association men who are interested in legislation.

Q. Is there any combination for the purpose of showing friendship to certain members of the legislature, and in showing hostility to others? A. No, sir.

Q. Do you meet and talk matters over as to what stories you will write? A. We do not.

Q. Do you meet at all? A. We meet occasionally in a friendly way and ask each other what is going on.

Q. Do you meet by arrangement? A. No, sir.

Q. Is there any formal agreement such as has been spoken of by Mr. Speer? A. No, sir; there is not; that is entirely false.

Q. Is there any agreement as to what you will send to your papers? A. There is not.

By Senator Mullin:

Q. Was there such a combination last year when Speer tried to join? A. No, sir; but there were several men here who, as correspondents, alleged correspondents, were lobbying for bills and it put us in disrepute, and we talked about the matter of an association and we asked the speaker and the president pro tempore to allow us to name the correspondents.

Q. Was the association Speer talked about your asking him to join the same as the one in 1889? A. No, sir; it was not.

Q. Is there any arrangement or agreement between you gentlemen not to mention the person's name in the newspaper? A. No, sir; there is not.

By Mr. Speer :

Q. Did you make the round of the reporters and say to them, "It is time to make it hard for O'Connor?" A. No, sir.

Q. You did not make any such statement? A. No, sir.

Q. Did you not make any such request of Smith? A. No, sir.

Q. Did you say "Boys, we ought to make a combination and drive that man, Senator O'Connor, out of public life?" A. No, sir.

Mr. Speer recalled.

By Senator O'Connor :

Q. Did he say that to you? A. Yes, sir; and Smith said he said the same thing to him. There is no question about it at all; I know he made the request openly.

——— Smith, being duly sworn as a witness in the above entitled matter, testified as follows :

By Senator O'Connor :

Q. Are you a correspondent for the Buffalo Times? A. Yes, sir.

Q. Do you know anything about these charges of bribery? A. I know nothing only what Mr. Seibert told me.

Q. You have heard the testimony of Mr. Speer; do you say that Mr. Blake said to you that the newspapers ought to combine to drive O'Connor out of public life? A. He certainly did say that to me at the Hygeia the day following the one that you made a speech, when you said you cared as much about what the newspapers said as the wind.

Mr. Blake.— That is absolutely false.

By Mr. Blake:

Q. Why did you go down to the telegraph office? A. I went with Mr. Boden, and would like to have him tell why I went.

Q. Did you speak to Sheehan that night about the combination? A. I never spoke to Mr. Sheehan about the combination at all, until after this matter came up.

Q. Since that time you have told him things you heard? A. I have.

Q. Did you tell him something that was said at the Hygeia? A. Yes, sir; I told him what was said.

Q. Did you write the article which appears on page six of this scrap book that I show you?

## A BRIBERY TALE.

*Simon Seibert Makes a Statement About It. It Took Two Weeks for Seibert to "Disclose" It. He is Still Very Indefinite About It. Was He "Approached" or Did He Imagine It? Never Coupled Mr. Sheehan With the Affair. That Was Left to a Reporter of a New York Paper.*

Special Dispatch to the Times.

Albany, N. Y., Feb. 13.—Simon Seibert has a reputation in Buffalo for talking on almost every occasion for no other reason than that he likes to talk. His nature did not change when he came to Albany, and he is talking here just as he talked in Buffalo. There is nothing that will induce Seibert to talk like an attentive audience, and when he dropped a hint last night that some one had attempted to bribe him on the Buffalo police bill, and newspaper correspondents gathered around him, he was right in his element, and would be talking yet if anybody had stayed with him. Seibert would probably tell a correspondent any kind of a story the correspondent wanted. If a bribery story was in demand Seibert would doubtless tell a bribery story. If the correspondent wanted the bribery story denied, Seibert promptly denied it. If a story of a political deal was desirable, Seibert told of a deal that would make the hirsute appendage of a coolie stand out like the quills of a hedge hog.

Seibert, be it said to his credit, did not realize what he was doing. He thought no more of saying that a man had attempted to bribe him, or at least he thought he had, than he had of drinking a four cent schuper on William street, Buffalo. Seibert, in his talkative mood, said that a "proposition had been made to him, and that the correspondents who dislike Lieutenant-Governor Sheehan set out to connect the proposition with him. They haven't the remotest idea who the person is who made the proposition."

But they take it for granted, like true disciples of reform, that Sheehan must have been the man behind it. The proposition is the same that has been made openly in the Senate, that an amendment be tacked on the police bill allowing the incoming mayor, instead of Mr. Bishop, to appoint the successors of the present police board. The additional proposition was made, so Seibert said, that if he was nominated the coming fall the Democrats would see that he was elected, provided, of course, that the bill passed in the form desired. Seibert also intimated that the proposition might have carried an offer of money with it, but he wouldn't say for certain. After the

New York correspondent had stood Seibert in a corner for over an hour, in an endeavor to get him to say something that had a suspicion of positiveness and that was even remotely definite, the Times correspondent asked him for a statement.

Seibert dictated the following, in the presence of a Republican correspondent of a Republican New York paper: "I am a member of the Sprudel Fishing Club, an organization to which a lot of men favoring the Democratic machine belong. A certain man, I will not say who, but he is a friend of mine, came to me and said that it would be no advantage to the Republican party to have the bill passed in its present form. He said that if I would consent to an amendment that would give the next mayor, who would probably be a Republican, the power of appointing police commissioners, I would be re-elected this year. The story that any money was offered to me is untrue, and I was not given to understand that I would get any money if I favored the amendment they wanted.

"I don't know whether the man who talked to me came from Sheehan. He did not say anything about Sheehan.

"I thought it only natural that I should be the one that a favor was asked of as I have always lived among the men who are anxious to see the present police board remain, and they know me better than they do any other. I say again that no money was offered to me, and I don't know whether any money was used. I would probably know if there was any.

"I am frank to say that I don't think it is good politics for the Republicans to nominate or to endorse Mayor Bishop for re-election. I would not support him. If the other members would have supported an amendment which would give to the next mayor the appointment of a police board I would gladly have supported it. I don't believe in this talk about re-electing Mayor Bishop, as I said before, and I think we should get the benefit of this legislation. We want a Republican for mayor and we're going to have one."

Thus it will be seen that if Seibert was not offered a bribe, as he says, the story falls flat. If he was offered a bribe, and didn't get mad as all reformers ought to, then he is hardly fit to hold his present office. It will also be seen that as Seibert is telling the truth, he is a traitor to his own party, and a traitor, by his own words, to the Buffalo police bill. One hundred and fifty men, all but five or six of them Republicans, came to Albany asking that the police bill be passed in its present form. It was said that they were the most prominent and influential business men and Republicans in Buffalo, yet Seibert dares

to say that he does not believe in the re-election of Mayor Bishop, and that the Republicans ought to get the benefit of the present legislation. He believes that the amendment that brought forth such violent abuse of Coggeshall, Owens and Reynolds in Buffalo should be passed. They are charged with party treason. What should be said of Seibert, who was elected on a platform whose whole underpinning was "charter restoration?"

A Republican said here to-night that Seibert's revelation would make him famous. Why should it make him famous? Two or more weeks have elapsed since the "event" occurred. Seibert had all that time to make a disclosure. Why did not he make it? What has he been waiting for?

The circumstances leading to the disclosure are interesting as showing the credit due Seibert. A correspondent learned that something of the kind occurred. He went to Seibert and pretended to know all about it. Seibert, off his guard, made a brief statement which told the whole story. Then he tried to wriggle out of it. When he saw how much notoriety he had acquired he began to talk. He talked steadily for ninety minutes.

Q. Did you write the story in the Lockport Sun? A. I did not.

By Mr. Perley :

Q. Didn't you write the article in the Buffalo Times in which you reiterated, on your own account, the statements in the Lockport Sun? A. I didn't; I never charged that the association was organized for that purpose charged in the Lockport Sun.

Q. You know that is not so? A. Yes, sir.

By Senator Mullin :

Q. Do you know that there is such an existing combination in your association? A. There is certainly one.

Q. Who are they? A. Mr. Perley, Mr. Blake, Mr. Hastings and Mr. Merlin.

Q. How many members in the association have you? A. I do not know.

Q. Are you a member of it? A. I am.

Q. Are there about thirty altogether? A. Yes, sir.

Q. You say this is a combination within the association? A. Yes, sir.

Q. Do you know of your own personal knowledge that they have made any such arrangement as was spoken of by Mr. Speer? A. I know that when Mr. Blake told me that you (Senator O'Connor)

ought to be driven out of public life, that that was not an inference; that is my own personal knowledge. And he said I ought not to mention Seibert's name because he was getting too gay.

Q. What do you know about Merlin and Hastings being connected with it? A. I do know that Merlin said to Hastings in the telegraph office that these stories would have the effect of driving Republican Senators in line to vote for the police bill. I heard him say that to Hastings.

Q. What do you know about Merlin and Hastings being in the combination such as was spoken of? Is it an inference on your part?

A. It was not an inference that night. There was something that Hastings did not want to say about Sheehan in his article and Merlin urged him to do it.

By Senator Lexow :

Q. Is that the only reason you have for inferring that there is a combination, the fact that you say these gentlemen conferred together that night? A. No, sir.

Q. Do you know of any positive agreement or arrangement that has been made, of your own personal knowledge, or anything that has been said to you by these gentlemen constituting an agreement on their part?

A. I don't know as I have; I have heard them say we have agreed to do so and so.

Mr. Blake offered in evidence the constitution and names of the executive committee of the Legislative Association. Received and marked Exhibit "3" of February 20, 1894. L. A. W. S.

#### CONSTITUTION AND LAWS OF THE LEGISLATIVE REPORTERS' ASSOCIATION OF THE STATE OF NEW YORK.

##### Name.

The name of this organization shall be the "Legislative Reporters' Association" of the State of New York.

##### OBJECTS.

To establish fraternal intercourse among legislative reporters and for mutual advantage.

##### MEMBERSHIP.

The membership shall consist of the actual legislative reporters of the daily press of the State of New York presenting duly certified credentials for duty at the regular sessions of the Senate and Assembly to the executive committee of this association.

It advocates that no person shall be entitled to the privileges of the floor of the Senate and Assembly as a legislative reporter of a daily newspaper who is interested in pending or contemplated legislation, or who is employed by or receives compensation from any corporation for influencing legislation.

#### OFFICERS.

The officers of the association shall consist of a president, first and second vice-presidents, secretary and treasurer. They shall serve for one year or until their successors are elected.

There shall be an executive committee of five members, and an entertainment committee of seven members.

The executive committee is empowered to adopt and execute such measures as will conduce to the benefit of the association; and to perform such other duties as the association may direct. The executive committee shall have the power to fill all vacancies of officers. The said committee shall select a chairman and secretary from their own members. A majority of the members of a committee shall constitute a quorum.

The entertainment committee shall take charge of all entertainments which may be directed by the association to be held.

The president shall be *ex-officio* a member of all committees.

#### MEETINGS.

There shall be at least one yearly meeting, which shall be held on the second Tuesday in January in every year, at five o'clock, in the afternoon, for organization.

For the purposes of yearly organization, the call for meeting shall be issued by the president, first or second vice-presidents, secretary, treasurer, chairman of the executive committee, or members thereof, or the chairman of the entertainment committee, or members thereof.

Meetings shall be called at the option of the president, or at the request of the chairman of the executive committee, to the president, or at the written request of ten members of the association.

#### EXPENSES.

Necessary expenses shall be met by an equal assessment upon the members. All expenditures shall be reported to the association.

#### RULES OF ORDER.

1. Calling the roll of officers.
2. Reading of the minutes.
3. Reports of committees.

4. Unfinished business.
5. New business.
6. Election of officers.
7. Adjournment.

The rules of the Assembly shall govern this body in its proceedings.

John Boden, being duly sworn as a witness in the above entitled matter, testified as follows:

By Senator O'Connor:

Q. Are you one of the correspondents at Albany? A. Yes, sir.

Q. For what paper? A. The New York Press.

Q. Were you in the telegraph office the night in question? A. I was.

Q. Did you go with Smith down there that evening? A. Yes, sir; Smith and myself had interviewed Seibert in the Assembly and we were walking down the hill together. When we reached the "Tub" I asked him to go and have a bite to eat, and he said "Yes, and let us go in and write our stories first," and I said, "No; to expedite matters we will go to the telegraph office and feed the stuff to the operator, to get it off as expeditiously as possible," and we went to the telegraph office together. It was at my invitation that he went to the telegraph office that night.

Q. Are you a member of the Reporters' association? A. I am.

Q. Do you know anything about this combination that has been spoken of? A. There is no such a thing; it could not exist without my knowing something about it, and all the inferences that have been drawn about it are false.

Q. You don't know of any such combination? A. I do not.

Q. You say it would be impossible for the combination, such as described by Smith, to exist without your knowing something about it? A. Yes, sir.

Q. It would be impossible for the New York newspaper reporters to have such a combination, because if there was you would know or see evidence of it? A. Yes, sir.

Q. You have never discovered evidence of it from your talk with the reporters of the respective papers? A. I have not.

Q. The association represents all stripes of political belief? A. Yes, sir.

Q. Often the correspondent of a Democratic paper is a Republican? A. Yes, sir.

Q. Mr. Hastings is a Republican, is he not? A. I don't know.

Q. Did Smith do any writing, at the telegraph office, that night?

A. Yes, sir; he did.

Q. Did he put any stuff on the wire? A. I do not know.

Q. Did he go to the post-office? A. He did.

Q. You do not know why he went to the telegraph office? A. He went on my invitation. I do not know what he did before he went or what he did after he left.

Senator Guy :

Q. In reporting this matter to your paper you were guided by no motive, except the motive of performing your duty? A. I did not. I endeavored to communicate with Mr. Sheehan that night, but it was a very stormy night, and he had gone home. I suggested to Mr. Smith that he ask Governor Sheehan over the 'phone, and he went to the Central office and the operator there said he would not be responsible for calling up Governor Sheehan at that time of night, and Smith took the bell and rang the Governor up, but he was not answered.

By Senator O'Connor :

Q. Your idea was to send the antidote with the poison? A. Yes, sir.

By Mr. Murlin:

He makes the following statement: I wish to say that I do not believe that Mr. Smith was there for the purpose that was suggested to me he had, and I told Mr. Hastings so. Mr. Hastings said to me, "watch and see if he files any copy," and I did ask afterwards if he filed any copy and was told he did.

William F. Sheehan, being duly sworn as a witness in the above entitled matter, testified as follows:

By Senator O'Connor:

Q. You are the Lieutenant-Governor of this State? A. I am.

Q. You live in the city of Buffalo? A. Yes, sir, and have all my life.

Q. Are you the presiding officer of the Senate? A. Yes, sir.

Q. And you were the presiding officer of the Senate the day these charges were made? A. Yes, sir.

Q. When did you first hear of any charge or an attempt to influence the action of any member of the Legislature? A. The first I heard was when I read an account of it in the morning papers at my house.

Q. Do you know of money being used to corrupt anybody? A. Not a cent, nor I never thought of it.

Q. Do you know of any approaches being made to influence the action of the members of the Legislature improperly? A. Not corruptly. I recall some weeks ago that Mr. Coughlin came to my room and said he had met Seibert the night before in the Delavan House, and Seibert said he was in favor of amending the bill, so as to give the power to the next mayor to appoint the police commissioners, and that he was going to tell the other Republican members to do the same thing.

Q. Do you know of any inducement being held out to Seibert, that he could name his opponent next fall? A. I never heard of it at all, until I read it in the newspapers. I believe the story that Coughlin told is correct.

Q. Do you know of anybody going to members of the Legislature to influence their action on the subject, or the action of any of the members? A. Not improperly. I presume Mr. Coughlin has talked with some, and I have myself.

Q. You tried to get the Republicans to vote for this amendment because it was good Republican politics? A. I asked Republican Senators to vote for it and for a legitimate reason; the reason I stated was that if the charter had not been amended originally that the present mayor would have had the power to appoint but one member of the police board; that the bill was not restoring the charter as friends of the charter claimed it was, but was conferring upon the mayor the power to appoint two commissioners when originally he had the power to appoint but one; I could see no good Republican politics in giving to a Democratic mayor the power to appoint the commissioners.

Q. You do not usually desire to give aid and comfort to the Republican party? A. Generally not; I have never been accused of it.

By Senator Saxton:

Q. In the lines you were following for your opposition of the bill and favor of the amendment, do you really believe that its passage would be a benefit to the Republican party? A. If the party carried the city of Buffalo next fall.

Q. You did not believe they would carry it if that amendment was attached to it? A. I do not know that.

Q. You wanted to be on top in Buffalo didn't you? A. I have never been the under dog yet.

Q. You believe the Republican party would be a mighty sight less likely to carry the city of Buffalo with the amendment than without?

A. I don't know about that.

Q. You have heard a good deal about newspaper reporters attacking public men? A. The first I heard of it was after this came out; I have been abused in the newspapers for a long time, but I never paid any attention to that; but what I feel in this matter was that my political opponents had been charging that I was dead, and that all the power that I was supposed to have at one time in Buffalo had been taken from me, and it looked as though they had tried to take from me that which no man cares to lose, and that is his good name.

Q. You believe it was meant as a charge of bribery? A. Yes, sir; I believe that no fair-minded man who will read those articles and come to any conclusion other than that bribery was resorted to and that the man who had used it was Mr. Sheehan.

By Mr. Blake :

Q. Mr. Seibert stated that Mr. Coughlan said to me that if he would consent to this amendment and vote for it, it would make his race easy for him next fall in Erie county, has he got the power to promise any such thing? A. I do not know that Seibert said any such thing, I don't recollect it; my recollection is that he said that Coughlin said he would make friends by that, and when he run next fall, it would be easy for him.

Q. If Mr. Coughlin had no right to give him this assurance, who is the man in Buffalo who would have the privilege? A. I don't know, according to the New York World, I would not.

Q. Do you know who wrote the story in the Lockport Sun? A. I don't; I never saw it until I saw it in the Argus; I learned more about this legislative association in that article than I have known before in my life.

By Senator O'Connor:

Q. Do you know anything about this newspaper association combination except as you have seen it in that article? A. I do not.

Q. Did Smith and Mr. Speer tell you about it? A. Smith did, after the publication of this story; I don't know whether Speer has before or not.

Q. Did you ever see anything of this article that furnished evidence of such combination? A. It was quite natural for me to suppose that there might be a combination of that sort when such a serious charge

should be made against me by special correspondents, not through the Associated Press, of the leading New York papers without even giving me an opportunity to deny it.

Q. Do you know of any other articles? A. I don't complain of their treatment up to that time; I have no complaint to make of the McCarty matter.

Q. Is this all you know about it? A. I think the existence of the combination was intimated to me before that, but other articles I looked on as purely political and I think a great deal of allowance should be made to the reporters on political matters.

By Senator Saxton:

Q. Do you know of these reporters that they only send out the routine work of the Legislature? A. I don't know that.

George Edward Graham, being duly sworn as a witness in behalf of the above entitled matter, testified as follows:

By Senator O'Connor:

Q. Are you a newspaper reporter in Albany? A. Yes, sir.

Q. Do you belong to the Reporter's Association? A. Yes, sir.

Q. What do you represent here? A. The Associated Press.

By Senator Saxton :

Q. Do you know anything about such a combination as has been testified to? A. I know nothing about special work.

Q. Do you know anything about such a combination existing in the association? A. We have no such a combination.

Q. Is there any existing combination in the association composed of members of it? A. I have heard it only through some newspapers and during the last two weeks.

Q. Do you think that it would come to your observation if it were true? A. I can't say that; my work here is to get the business of the Legislature without any embellishments.

Q. That part of it is left for special men? A. Yes, sir.

Senator Lexow moved that a subcommittee be appointed to take the testimony of Mr. Hastings.

The chairman appointed as such committee Messrs. Saxton, Pound and McMahan.

Hearing adjourned.

*February 28, 1894.*

Present — Senators Saxton, McMahon, Pound.

Hugh Hastings, being duly sworn as a witness in the above-entitled matter, testified as follows: .

By Senator Saxton:

I am a newspaper correspondent, and represent the New York Times as its correspondent at Albany. I have represented the newspaper here since 1889. I was the legislative correspondent of the New York World, at Albany, during the sessions of the Legislature of 1886 to 1889. I was here in 1887 as correspondent of the World, and during the latter portion of the session of 1888. During the time I was correspondent of the World there was an association of newspaper correspondents in 1886, but if my recollection serves me, there was no such association in 1887, and certainly not in 1888; I was not, during any of those years a member of any combination of newspaper correspondents with any special object in view; I have heard it charged that during 1887 and 1888 I was a member of a combine of five (5) newspaper correspondents at Albany, for the purpose of writing certain papers up, and others down; I was not a member of such a combination nor of a combine that agreed among themselves that they should show favor to some people, and attack others; there was no combination or agreement of any kind whatever, with regard to the course to be pursued by the correspondents of the World, Herald, Tribune and Sun, as to any matter whatever; I was not then, nor at any time, a member of such combination; there was no understanding, express or implied, among those correspondents, that they were to show favor to some people, and attack others; or that they should increase their influence or the influence of their newspapers by taking such a course; I am a member of the Legislative Reporters' Association at this time; its object is to deprive lobbyists of the privileges of the floor under the guise of newspaper men; there has been no combination or agreement, express or implied, between myself and Messrs. Perley, Murlin, Lake and others, for the purpose of favoring some people and attacking others. We have never conferred together with a view to agreeing upon such a course of action. There is no agreement between us, express or implied, by which any concert of action has been arrived at by newspaper men with a view to their action as to members of the Legislature.

(Witness shown extract from New York Times of February 13, 1894, dated Albany N. Y.)

The witness (continuing) :

I wrote that article.

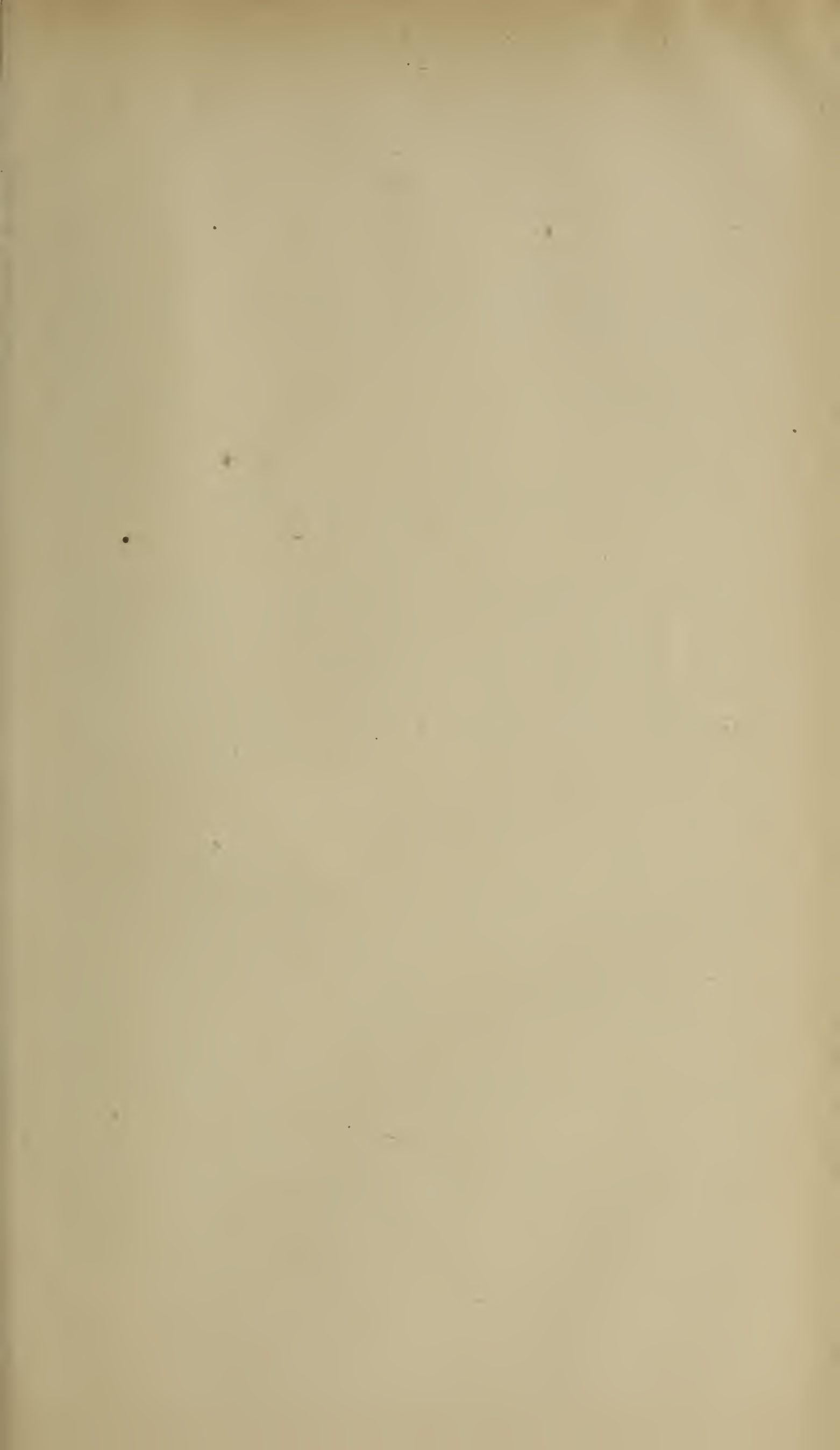
Extract offered and received in evidence, and marked Ex. C. W. P., Feb. 28th, 1894.

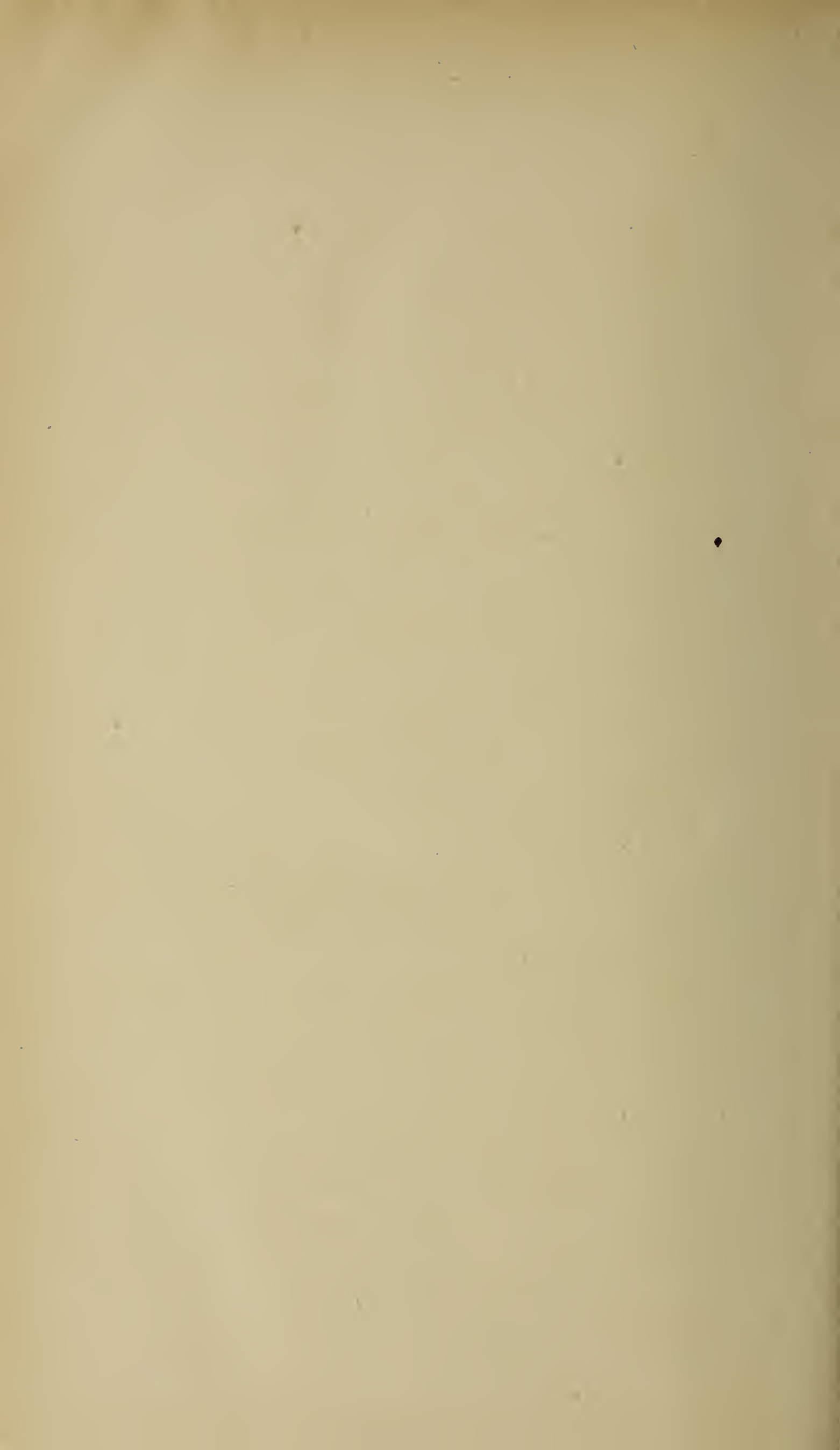
By the witness (continuing) :

I have no knowledge or information upon the subject of bribery or attempted bribery of members of the Legislature, except that set forth in this article.

When I was in the Assembly chamber that night, it was suggested to me by a member of the Legislature, whose name I cannot recall, that I see the Erie county members about attempted bribery on the Buffalo police legislation. I did not see any of them, but I saw Mr. Perley, Murlin and Brown immediately after their talk with Seibert, and got my information from them.







# STATE OF NEW YORK.

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No. 29.

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## IN SENATE,

MARCH 8, 1894.

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### PREAMBLE AND RESOLUTION

#### AUTHORIZING THE

COMMITTEE APPOINTED TO INVESTIGATE THE POLICE DEPARTMENT OF THE CITY OF NEW YORK TO CONTINUE SAID INVESTIGATION DURING THE RECESS OF THE SENATE, AND THAT SAID COMMITTEE HAVE ALL THE POWER AND AUTHORITY CONFERRED IN SENATE DOCUMENT NO. 27.

By Mr. Lexow:

Whereas, By resolution, Senate document No. 27, on the 30th of January, 1894, a committee was duly appointed by the Senate to investigate the police department of the city of New York, and thereafter, on February 15, 1894, the time within which said committee was directed to make a report was extended to the end of the session, and

Whereas, It appears that it is impracticable to make a report within the time so limited; therefore

Resolved, That the said committee be, and it is hereby authorized and empowered to continue the investigation in said Senate document No. 27, and said resolution of February 15, 1894 provided for during the recess of the Senate, and that said committee have all the power and authority during said recess conferred upon it in and by said resolution.







# STATE OF NEW YORK.

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No. 30.

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## IN SENATE,

MARCH 12, 1894.

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### MEMORIAL

OF

CHARLES T. HARVEY STATING HIS CONNECTION WITH CERTAIN PROCEEDINGS OF THE SENATE AND LAWS OF THE STATE, AND PETITIONING THAT THE OPINION OF THE ATTORNEY-GENERAL MAY BE OBTAINED IN RELATION TO SPECIFIED LEGAL ISSUES PERTAINING THERETO.

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*To the Honorable Senate of the State of New York:*

The undersigned memorialist respectfully asks leave to present the following statement of facts in a case with which the Senate is most eminently historically connected, and also personal interests of your memorialist, of both a public and private nature, are involved, to the end that the honorable Senate may take such further action in the premises as its honor and dignity may seem to require, and as may also promote justice and equity in relation to the public and private interests and rights pertaining thereto.

The Senate in its session of 1866, by resolution duly passed April 27, created a commission to investigate the then utterly unsolved and most pressing problem of affording rapid transit relief to the city of

New York. The commission advertised in your name in the leading cities and nations of the world, soliciting plans to be submitted to its inspection upon which to make report to the Senate at its next session.

Your memorialist complied with the terms of such invitation, and in due time was honored by having his plans selected as the best, and so reported to the Senate of 1867. Thereupon a bill was originated in the Senate, and being concurred in without amendment by the Assembly and approved by the Executive, became chapter 489 of the Laws of 1867, especially authorizing a trial of the merits of your memorialist's plans, to which a supplementary act was added in 1868 (chapter 855), and from such action of the Senate and the laws thus inaugurated by it favoring the use of said plans have resulted all the rapid transit facilities which the city of New York now enjoys, and developed the most effective system of urban rapid transit now utilized in the world.

Elevated railways in the streets of cities were unknown until this authorization of your memorialist's plans gave them their first legal status.

But the laws referred to required that a trial or illustrative section should first be erected at private expense, and the question of the public utility of the system thus exemplified be passed upon by the Governor, and if his approval was withheld, the same must be removed at the cost of the builders. Also the proviso that the motive power (being restricted to the then unprecedented style of traction cable propulsion, necessarily imperfect and experimental in its first application) should not be changed except after "due experiment;" and furthermore, that five per cent of the net earnings of the railway, if approved, extended and opened for traffic, should be devoted to improving the appearance of the streets in which the structure with that form of motive power might be subsequently erected, which, however, must be upon the curbstone lines (as now located in Greenwich street and the Bowery), and the disbursements of the fund made by a board of commissioners, of whom a majority were to be appointed by the Governor, and the income to be deposited with the city comptroller as special custodian of the same, and which the laws forbade being merged into the municipal funds of which he was comptroller.

Under these unusual and onerous conditions, without municipal or State financial aid in any form, your memorialist proceeded to erect the trial section at an expense of \$206,611.70, besides large preliminary disbursements and expenses not charged to the construction account. Your memorialist not only furnished the plans and

supervised the work as chief engineer and executive manager, but was himself the largest contributor to the cost of the undertaking. He had the honor of escorting the Governor (Fenton) on his tour of official inspection, and the great satisfaction of receiving immediately afterward a certified copy of the executive approval as deposited with the Secretary of State. Such were the special conditions under which the first elevated railway for city transit purposes in the history of civilization was launched into being. All the elevated structures for like purposes since erected have, in their essential features, been built upon the plans of your memorialist thus made public, but in regard to the dominating feature of the motive power appliances a most unlooked-for series of circumstances arose which completely nullified the intent of the original State laws and the plans of your memorialist.

A stock speculation took form in the constructing corporation, which the anterior success of the motive power experiments would render abortive. A combination was formed of sufficient strength to displace your memorialist from the charge of his own conception, because he declined to subordinate engineering perfection to participation in illicit profits. The main features of this revolutionary process are recorded in Assembly Document 33 of 1873, and in later legislative investigations, and will not be enlarged upon in this communication. Suffice it to say that by means of a collusive foreclosure sale, in the interest of the stock operators who had managed to secure a "pool" control of the constructing corporation and prevent its resistance, your memorialist's large stock interest was cut off under color of legal forms, and his arduous labors and unprecedented risks and successes were confiscated without ultimate compensation in any form.

This iniquitous result could not have been consummated if the State had not by special law (chapter 595 of 1875) confirmed the transfer of the property. After long possession under this title, a decision of the highest court in 1881, that the sale was illegal, came too late to give practical redress to your memorialist.

Coincidentally with this stock speculation the plans of your memorialist for perfecting the motive power were forcibly suppressed, because their success would counteract the plot to buy in the undeveloped property at less than its cost before its intrinsic value should become too manifest to permit of such a raid.

To this suppression of engineering plans your memorialist made all possible resistance. He entered his protest before the Legislature of

1873, as found in public documents of that year, but his appeals for justice proved ineffectual, as the Legislature of 1875 confirmed the previous suppression of his plans, and authorized a change to other methods without any pretense of fulfillment as to the pledges of "due experiment" in the original laws under which he had been induced to solve the rapid transit problems of the metropolis, so far as then or since accomplished.

Nothing further could be done until the decision of the Court of Appeals, in 1881, had made the fact clear that the State, having confirmed an illegal transfer of your memorialist's property in the experimental railway, was in equity bound to make compensation for the loss thereby inflicted upon him. Meanwhile, the unrivaled utility of the system of elevated railways which your memorialist originated under your patronage had, notwithstanding its inferior motive power, unnecessary bulk and unsightly appearance, developed such an unprecedented traffic that the five per cent fund before mentioned had reached such annual accretions as to make it certain that it would shortly amount to a sum exceeding your memorialist's first outlay, and could be applied to the resumption and completion of the "due experiment" originally guaranteed to him.

Accordingly your memorialist began in 1883-4 to bring his grievances to the attention of the Senate and to solicit its investigation of the same, and has to bear testimony to the uniform courtesy and consideration which your honorable body has in successive sessions accorded to him.

In 1884 his petition was referred to the Committee on Grievances, which made a report containing the following remarks:

*First.* That the said Charles T. Harvey, as the originator, projector, promoter and constructor of the pioneer experimental line of elevated railway in the city of New York, is entitled to special recognition and consideration from the fact that he became such at the special invitation of the Senate through its commission, created in 1866, and his plans were selected as the best by that commission, as appears in their report, printed as printed as Senate Document 28 of session of 1867.

*Second.* The allegations of Mr. Harvey that his original experiments were illegally interrupted and suppressed seem to be sustained by the evidence submitted, and the honor of the State and the public interest in the case evidently require such rectification of this injustice as present circumstances may permit.

J. SLOAT FASSETT,

Chairman.

In 1885 the Senate ordered a special investigation to be made by the Railroad Committee, which delegated its powers to a subcommittee, of which the late Judge Low, of Orange county, was chairman, and who was also a member of the original Senate commission of 1866-7, which first selected your memorialist's plans and recommended them to your

favor. The report (Senate Doc. 45) contains twenty-seven pages, from which the following extracts are made:

The subcommittee take pleasure in calling the attention of the Senate to the outcome of its action in former years, in giving direction to the efforts to solve the problem of rapid transit for the great city of New York. Less than two decades have passed since a special commission appointed by it took up the subject and invited competitive plans from all nations. The method selected was not at first received with favor by the capitalists of the city, where a trial of it was recommended.

Before its merits were tested other plans were brought forward of grander proportions and with far more capital behind them. One of them was authorized at the instance of the leading financial magnates of the metropolis, and in the Laws of 1871 are to be found statutes (see Exhibit J) requiring the municipality to subscribe \$5,000,000 to the stock of one scheme to start it into life, with permission

for issue of bonds of city and counties to aid the same for indefinite additional millions. Meanwhile the plan adopted by the Senate, under many drawbacks and without a dollar of public money, developed so rapidly that the city has saved all of its appropriated funds from actual investment, if not total loss.

Under these circumstances your committee does not see how the Legislature can, with propriety and good faith, do less than to place the fund at the disposal of the engineer to whom it owes its existence, and who alone, so far as known, can apply it to the uses for which it was intended, and thus some amends be made for the glaring injustice to which he has been subjected for a long series of years.

\* \* \* \* \*

H. R. LOW,  
Chairman.

The committee reported a bill to embody these views, which the Senate adopted and which the Assembly and the Executive approved, and which is to be found on the statute book as chapter 554 of Laws of 1885.

Governor Hill, in his memorandum of approval, remarked in part as follows:

MEMORANDUM OF REASONS FOR EXECUTIVE  
APPROVAL OF CHAPTER 554, LAWS OF 1885,  
FILED IN SECRETARY OF STATE'S OFFICE.

EXECUTIVE CHAMBER. *June 13, 1885.*

The approval of this bill is asked for by ex-Governor Horatio Seymour, and also by the following gentlemen, who have an established reputation in the profession of civil engineering, namely: Thomas C. Clark, Washington A. Roebling, S. H. Sweet, Charles H. Haswell, Egbert L. Viele, Alfred P. Boller, and many others. From papers on the file with this bill, and from the report of the Legislative Committee of this year, it seems that Charles T. Harvey many years since was, if not the originator of the method which seemed to solve the long mooted and important question of rapid transit, at least perfected a plan that was afterwards of great utility, and in a large measure assisted in giving the present rapid transit facilities to New York city. The moneys directed to be disbursed under this bill belong to a special fund accumulated by payments made by the elevated railroads of that city, in pursuance of the original act authorizing their construction, by which act the use of said fund was limited to certain

purposes, mainly for repairing the streets and roadways, which it was then thought would be seriously injured by reason of the construction and operation of such railroads. During the years in which they have been operated, I am informed, it has not been found necessary to expend a dollar of this fund for the purposes contemplated, and it seems probable that none of it will ever be to any extent needed therefor. The purpose of this bill is to provide means whereby Mr. Harvey can further develop his plans for rapid transit, which, it is claimed, he has already brought to great perfection, and the approval is urged for that reason, and further as a matter of justice to one who has been so largely instrumental in giving to that city its present system.

It seems to me that there is great force in these reasons, and the language of ex-Governor Seymour clearly states the proposition when he says: "The city has had almost exclusively the benefit of elevated roads. The legislative reports and laws show that Mr. Harvey was encouraged to persevere in his effort to improve that system of transit. I think no one can read these reports without feeling that the honor of the State demands that compensation

be made to Mr. Harvey." It is universally admitted that increased facilities for rapid transit are imperatively demanded in New York. Personal observation of the means now afforded and considerable study and attention given to this subject have convinced me of the inability of the system in its present condition to give the relief needed. Some careful legislation in the interests of the people in the direction indicated is undoubtedly demanded. In the meantime it appears entirely proper that a fund, coming as this does from the in-

come or earnings of the system itself, should be used in its further development and in doing justice to Mr. Harvey, especially as it does not cost the taxpayers of New York a single dollar. In the hope that this measure will aid in supplying a conceded want to New York city, and because of the high personal and professional character of the gentlemen familiar with the subject recommending this legislation, I have concluded to approve the bill.

DAVID B. HILL

The provisions of the law placed the disbursement of the fund in charge of your memorialist, and directed it to be used for the erection of a new illustrative section of elevated railway whereon the motive power appliances originally intended to be perfected by "due experiment" should be replaced and experimentally perfected.

This most just and judicious measure the custodian of the fund, being also the comptroller of New York city, opposed to the utmost, and on litigating the question of payment obtained an opinion in the courts that the law was invalid so far as authorizing an individual to build a railroad, which power the Constitution, as amended in 1875, debarred the Legislature from conferring.

As your memorialist had no expectation of building the railroad as an individual, but, as in the first instance, would have arranged for a duly authorized corporation to undertake it under his supervision, the objection was simply a technical one, availed of to defeat a *bona fide* proposition to improve rapid transit methods in the city of New York.

The Senate continued true to its traditions by referring the subject to committees at later sessions, who invariably and unanimously reported in favor of new legislation to carry out the intent of the law of 1885, but in such form as to avoid the objections previously interposed by the courts.

This the Senate inaugurated in Senate Bill 608 of 1889, after prolonged investigations by committees in 1888-9.

The committee of 1888 remark (see page 18, Senate Document 60):

At a hearing of arguments in this case the city of New York was represented before your committee by able counsel, who, while *admitting that the claimant had a just claim against the State in view of all the facts*, yet insisted that it must adjust the same without recourse

to the fund in question, because the latter should be deemed to be city income, devoted to city uses solely, by the original acts.

\* \* \* \* \*

S. S. HAWKINS,

Chairman.

The bill reported by this committee was duly passed and sent to the Governor, who gave no reasons for withholding his signature. Again, in 1891, the Senate, following its Committee on Claims report, printed

as Senate Document 44, passed Senate Bill 269, which Governor Hill declined to sign largely on account of the opposition of the city officials, as referred to in his memorandum annexed thereto.

Again, in 1892, the Senate referred the subject to its Committee on Claims, which reported as follows:

*To the Senate :*

In compliance with the instructions of the Senate embodied in the resolutions adopted by it under date of February 18, 1892, in the words following :

*Resolved*, That the Committee on Claims be authorized and directed to obtain from the comptroller of the city of New York a statement of the receipts and disbursements of the special tax fund referred to in chapter 489, Laws of 1867; chapter 855, Laws of 1868, and chapter 554, Laws of 1885. Said committee also to inform the Senate as to the nature and extent of existing claims upon said fund heretofore recognized by the State or Legislature, and as to present equitable obligations arising therefrom, and report thereon by bill or otherwise at the earliest practicable date.

Your Committee on Claims presents the following report :

That the information directed to be obtained from the comptroller of New York city is contained in the following communication :

CITY OF NEW YORK,	
FINANCE DEPARTMENT,	
COMPTROLLER'S OFFICE, March 2, 1892.	
* * * *	
Total receipts .....	\$268,493 75
Less disbursements:	
Expenses incurred in litigation	
relating to fund.....	1,768 62
Balance to credit of fund at	
date .....	\$266,725 13

Respectfully.

THEO. W. MYERS,  
Comptroller.

Your committee further report that from evidence in Senate and Assembly documents bearing on the subject, it appears that but one claim of the nature indicated in the resolution exists upon this fund, to wit, that of Charles T. Harvey.

This has been once recognized by the State in the passage of chapter 555 of Laws of 1885, afterwards invalidated by the courts on technical legal points and twice subsequently by the Legislature in the passage of Senate Bill 603 of 1889 and Senate Bill 269 of 1891.

It has been the subject of special investigations ordered by the Assembly in 1873, and by the Senate in 1884, 1885, 1888, 1889 and 1891, and the reports of the same ordered printed.

The claim has been strongly indorsed in all these reports, and the opinion unanimously expressed that the honor of the State required its adjustment.

Your committee have not deemed it necessary to add to the testimony thus on record in this case.

The fact is abundantly proven that the fund now deposited with the comptroller of New York city as custodian owes its existence to the confidence reposed in the honor and guarantees of the State as pledged to Charles T. Harvey when it solicited and accepted his plans for the present system of elevated railways in that city and provided for his submitting an illustrative section at his own and associated expense and risk for inspection with alternate rejection or acceptance by the Governor on its behalf under certain conditions, not as a perfected, but as an "experimental" railway. That those conditions were subsequently violated by the State to the manifest and unjustifiable injury of said Harvey has been declared in each of the six reports on the subject printed as State documents, and also repeatedly affirmed by the Legislature itself. The only unsettled feature, therefore, remaining to be considered is the measure and method of reparative compensation. The last Legislature enacted that his original outlay, with interest, be unconditionally returned to him out of the said fund.

To this the Governor objected, mainly on the ground that the public interest in further experiments had not been at the same time provided for, as in a former instance when he approved of the adjustment of the claim as a vindication of the honor of the State and as a deserved tribute to individual merit.

Your committee find that the claimant is disposed to co-operate in obviating such objection and to acquiesce in a reference of the amount of compensation to him for loss of time by allowance of interest to representatives of the Chamber of Commerce, Real Estate Exchange, and Engineering Association of the city receiving the benefit of his labors, which your committee recommends in view of the fact that a decision from such a source would unquestionably command the confidence and respect of the public at large.

An examination of the statutes proves that this fund has always been under the sole control of this State, and the power to change its conditions and application has been reserved

to the Legislature in every act relating to it. Its original purpose was, however, declared by statute to be to subserve the interests of the residents on, or frequenters in, the streets where such experimental railway might be located, by promoting improvements in their appearance in relation to shade trees, awning frames and other local conditions. Although the change of location of the experimental railway track from the curbstone lines to the roadway center rendered these provisions obsolete and useless, yet an implied obligation to consult the interests of the adjacent property-holders remains.

This can be fulfilled in no more direct way under present circumstances than by facilitating experimental improvements in the style and operation of similar railways which may be hereafter proposed for like street occupancy. That the equitable interests of property-owners referred to in the laws creating this fund will not be fulfilled by turning it into the general fund of the city treasury is too apparent to need argument.

Your committee has prepared a bill to accompany this report, which is intended to obviate the executive objections and harmonize the interests hereinbefore referred to, and at the same time afford a measure of redress for injustice heretofore suffered by the author and introducer of the elevated railway transit system in the city of New York, and recommend its passage.

Whether that system might have been, or can yet be, improved or not, State records prove that to Charles T. Harvey, the claimant in the case, belongs the credit not only of its introduction and demonstration of utility, at private risk and outlay, to which this fund owes its existence, but also of successfully organizing resistance to the attack of the city authorities under the Tweed regime in 1871, when seeking the passage of a law to annihilate it and thus remove the only rival to the subsidized viaduct scheme, which, but for the preservation of the pioneer elevated railway line, would have opened a wide avenue into the

city treasury and increased the municipal debt indefinitely.

A true statement of the results to the author of these efforts, so invaluable to the city, should cause a blush of shame to every one of its transit beneficiaries, and also the citizens of the State generally, because its pledges of good faith so freely accepted at the outset by the individual referred to have been so carelessly maintained by the sovereign power in such a notable example.

In view of the incident that the twenty-first proximo will mark the expiration of a quarter of a century since the said projector exhibited the plans and models of the first elevated railway in the world's history to the Senate of 1867 informally assembled near this Capitol, leading to an authorization, as the result of which 1,700,000,000 of passengers have been already conveyed by that method in the chief city of this State, then in dire straits for such facilities, but now enjoying incalculable benefits therefrom, besides the estimated adding of \$300,000,000 of taxable values, and upwards of \$5,000,000 realized municipal income from direct taxation, your committee suggests that the Senate manifest its appreciation of the agency of its former members in the realization of this vast utility, in some appropriate manner, and also expedite the tardy measure of justice to the person furnishing the aforesaid exhibition of 1867, which the bill herewith submitted provides for in such a guarded and conservative manner as is hoped will obviate all objections to the same.

Your committee have concluded to embody, in an appendix, the most salient facts and findings published in reports by former investigating committees, to add to those of this date, and serve as a compendium of the case for the information of the Senate, and ask to be discharged from further consideration of the subject.

SENATE CHAMBER, *February 29, 1892.*

E. P. HAGAN,

C. E. WALKER,

H. J. COLEGESHAL,

*Committee on Claims.*

This exhaustive report renders further statements by your memorialist unnecessary, and only supplementary occurrences will be hereinafter mentioned.

The Senate passed the bill accompanying the report by the significant vote of yeas 26, nays 0, and the Assembly by 86 yeas to 16 nays.

Such a combined recognition of the claims of your memorialist to the regard of the State and its citizens, including those in its great metropolis, caused a thrill of pleasure which words can not describe, and adds to the luster of the steadfastness of the Senate's record in behalf of justice and equity in this connection.

The bill was not signed by the Governor and the following memorandum in part was filed with it :

After a careful consideration of the briefs and papers submitted for and against the bill, I am constrained to withhold my approval for the following reasons :

*First* Because I fail to see that the State is under any pecuniary obligation to Harvey whatever.

*Second.* Whether there is any such legal or moral obligation or not, the money with which it is provided by this bill to be paid properly belongs to the city of New York, and should not be diverted to any other than municipal purposes. It was paid under a con-

tract made inviolable by the Legislature as compensation for the use of streets by the elevated roads. It was small enough compensation for the franchise granted that the city should not be deprived of even this pittance.

*Third.* The bill is of doubtful constitutionality. \* \* \* \* \*

The measure is opposed by the local authorities of New York, and the claim is not sustained by any general public sentiment anywhere in the State.

R. P. FLOWER

It would hardly seem possible that the Governor could have been aware of the fact that the elevated railways were paying into the city \$600,000 per annum as direct taxes, or he would not have spoken of a "pittance" in such connection. Also, it would have seemed eminently safe and proper to have relegated the question of the constitutionality of the measure to the courts. The "public sentiment" in the legislative halls might reasonably have been classed as "anywhere in the State."

That "the measure is opposed by the local authorities of New York" is one proposition in the executive memorandum about which no doubt could exist. Who could decide whether justice and equity in any form or to any extent would alone suffice to silence or overcome that "opposition?"

To throw as much light as possible upon this latter interrogatory, your memorialist again applied to the Senate of 1893, and in his memorial (printed as Senate Doc. 26) suggested that the Senate Committee on Claims be authorized and instructed to confer with the Governor, and report what measure of relief and redress he would approve, as the following extract will indicate:

He (your memorialist) most respectfully requests that the honorable Senate Committee on Claims be instructed to make due inquiry whether some modification of the pro-

visions of said bill may obviate executive objections and promote the great public interests involved.

The Senate on receipt of the memorial unanimously adopted the following order February 9, 1893:

Resolved, That the memorial of Charles T. Harvey be ordered printed and referred to the Committee on Claims to comply with the

request therein contained, with power to report by bill or otherwise at any time.

Your memorialist also wrote to Governor Flower requesting an opportunity to appear before him and explain the nature of his claim and the public benefits which would result from his resumption of his original line of experimental perfecting of improved methods for rapid transit in cities.

Not receiving any reply he requested personal friends to call upon the Governor and ascertain whether a joint meeting with the Senate committee and himself at the Executive Chamber could be arranged, or the intent of the Senate resolutions made effective in any manner.

Those intermediaries reported in due time that they had complied with the request, but could get no satisfactory response to their inquiries; the most definite reply being a remark of the Governor that he might possibly consider the subject after the adjournment of the Legislature, but was too busy to give the matter attention while it was in session. There being nothing more that your memorialist could do to parry these rebuffs, he awaited further developments.

These came in a public announcement through the city press, conveying the first intimation to your memorialist of new conditions in his relations to the State, and is given *verbatim* as follows:

[The New York Sun, Tuesday, August 22, 1893.]

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**TAX RATE ONLY \$1.82.**

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**Lowest in the City's Records — "Harvey Claim" Money Helped Reduce It.**

The finance committee of the board of aldermen had a surprise in store for the taxpayers of the city to be sprung at to-day's meeting of the board. THE SUN will anticipate the committee by a few hours and announce that the tax rate for 1893 will be \$1.82 on \$100, instead of \$1.83, the rate previously announced.

\* \* \* It seems, though, that the city has \$206,611.70 less to raise by tax than was expected. That sum of money, which has been in the city treasury for many years and has been the object of annual legislative attacks, has been turned into the general fund and applied to the reduction of taxation. This is the money which was raised under the Rapid Transit Act of 1867, as amended by that of 1868, for the experimental section of

elevated railroad structure built in Greenwich street from designs of Charles T. Harvey. Harvey has been trying for nearly twenty-five years to secure the money with the help of the Legislature. The Harvey Claim Bill was presented with unfailing regularity every year, and was always defeated by the intervention of the city authorities.

This year it was decided to effectually dispose of it. Accordingly Corporation Counsel Clark drew a harmless-looking little bill, which was an amendment to section 207 of the Consolidation Act, relative to the powers of the board of estimate. One phrase in that bill made it possible to transfer the \$206,000 into the general fund of the city treasury for the reduction of the tax budget, and as soon as the bill, which met with no opposition, became chapter 186 of the Laws of 1893 by the signature of Governor Flower, the board of estimate and apportionment met quietly in Mayor Gilroy's private office and transferred the money. Now it can not be reached if a hundred Harvey claim bills are passed every winter.

By referring to the act indicated in the foregoing notice, its terms, in part, were found to be expressed as follows:

\* \* \* "Any balance to the credit of any account of moneys which have been or may hereafter be paid into the treasury of the city under existing laws, appropriated or authorized to be expended for any specific

purpose, and which the said board of estimate and apportionment may determine not to be necessary, or to be in excess of the amount required therefor, may at any time, but not less than sixty days after the expiration of the year for which such appropriations are made, or sixty days after the expiration of the year during which the moneys aforesaid were paid into the treasury of the city, *after allowing sufficient to satisfy all claims payable from such appropriations, or which the Comptroller shall certify should be paid from said moneys paid into the treasury as aforesaid*, be transferred by the comptroller, with the approval of the said board of estimate and apportionment, to the general fund of the city and applied to the reduction of taxation." \* \* \*

It thus appears that the Governor signed the act March 23, 1893, during the time when your memorialist was vainly attempting to gain a hearing before him in conjunction with the committee charged by the honorable Senate to seek relevant information on the same subject. That the act thus approved contained provisions the intent of which was not suspected by the Senate or Assembly when before them, is plainly intimated in the quoted announcement, and is a fact that doubtless no one will deny. Its surreptitious character may thus be assumed as established. In view of the statement of this case as set forth in the report of the Senate committee of 1893, does history record a more dishonorable or contemptible finale?

Not only as the protege of the Senate and State in securing the greatest boon which private means and labor have ever conferred on the city of New York, but as a lineal descendant of the military commander in the only battle ever fought within its earlier limits, and who laid down his life to aid in establishing its present form of government, your memorialist has to announce as the result of his experience a marked nonobservance at the Executive Chamber of the usual courtesies of official intercourse which are supposed to be freely accorded to any citizen of the State, however humble in station or influence.

As to intercourse with the city officials, his last experience of that kind was when receiving overtures to accept a bribe to connive at the destruction of the elevated transit system, under the circumstances stated in Senate Doc. 28, of 1885.

All this official chicanery to oppress and rob a worthy claimant of his just rights may seem a small matter to those in authority, but it involves serious loss to the public at large. With your memorialist's previous experience connected with introducing transit improvements into the city, no one will expect him to volunteer his services again, or suffer for a second time the peculiar kind of martyrdom that has ensued; but he desires to place the statement on record that if he

could see any basis on which he could be assured of honorable treatment and just dealings, he could demonstrate improvements upon the present methods of rapid transit in this city, the results of which would be scarcely less valuable and useful than those which he first inaugurated. Such being the case, will the honorable Senate continue its favoring policy, and essay once more to stem the tide of municipal incompetency as it did in 1866-7?

Believing that the honorable Senate will continue true to the tenor of its previous record in this connection, your memorialist will suggest that an investigation into the present legal status of the transit improvement fund created by the Laws of 1867-8 becomes an essential factor in the case, and that a reference of the matter to the Attorney-General for an official opinion, of which the Senate can take cognizance, will be a proper means of obtaining due information in that regard.

Your memorialist, therefore, petitions that such opinion be requested by the Senate, especially upon the following points:

*What relation to the fund created by chapter 489 of Laws of 1867 and chapter 855 of Laws of 1868, does the engineer (Charles T. Harvey) named in chapter 554 of Laws of 1885 now occupy, or has occupied since the action of the Court of Appeals invalidating the authority for certain construction work specified in said last-mentioned act?*

*Do the provisions contained in chapter 186 of Laws of 1893 legally nullify those of chapter 489 of 1867 and chapter 855 of 1868, pledging the use of the five per cent fund thereby created for certain specific purposes therein specified, and sufficiently authorize a diversion of the fund to purposes other than for improvement of or in the streets, as originally enacted?*

*Have the owners of the realty along the original line or subsequent extensions of the experimental railway authorized by the Laws of 1867-8 vested rights in the application of its reserved fund which can be enforced in equity, or should be respected by the State?*

*Can the State by statutory provisions control the improvement five per cent fund created by chapter 855 of Laws of 1868 or the act to which it is supplementary, both as to the collection and disbursement, and direct as to the uses to which it may be applied, whether in the encouragement of better forms of structure or motive power, or otherwise, as the Legislature may direct?*

With these queries answered, legislation may be more successfully enacted to remedy some of the incongruities and abuses of trust in this connection which certain laws seem to sanction.

The act (chapter 186) of 1893 ignores all the rights and interests, as to the use of the improvement fund, of realty owners along the original or extended lines of the experimental railroad. Said a learned professor of law, in speaking on this subject before a legislative committee :

This fund is an equivalent for the use of the streets by the elevated railroad, and is to be put back on the streets.

"Such is the construction put upon this act by the Court of Appeals in *People ex rel. N. Y. El. R. R. Co. vs. Com'rs of Taxes*, 82 N. Y. R., 459. It was contended by the railroad in that case that this five per cent exempted it from other taxation. The court held that it did

not. At page 465 is found this language: "The contribution exacted by statute is expressly applied to remedy evils and relieve injuries which would have had no existence except for the interference of the relator (the elevated railroad) with the streets and avenues of the city, and it is, as the statute itself declares, 'compensation for the use and occupancy of the streets.' "

Said act also constitutes the original custodian of the fund both the sole auditor and director of its disbursement, without repealing other statutes prescribing different modes of performing the same functions.

Another development of interest in this connection is the recent action of Governor Flower in making new appointments of commissioners under authority of chapter 489 of Laws of 1867, providing for the first experimental railway. Of the three members of the board the city directory gives the occupation of two as lawyers and the third as that of a druggist. (Engineering ability or experience seems to be ruled out of transit affairs in the Executive estimation.) Their consent was cited in court within the last few weeks as due authority for enlarging the structures on the original or "experimental" railway line which has created the five per cent fund which the Governor so strenuously opposes having applied to improve the appearance and condition of the streets through which the experimental line passes, by demonstrating that better plans are available.

Action by the Senate to ascertain whether the realty owners referred to are liable to imposition and injury from ill-advised if not inert legislation, is not only a matter of high prerogative, but of highest public moment at this juncture, when your memorialist is ready, under proper guarantees, to bring forward improved methods of transit which will vindicate the honorable Senate's past and proposed action in that regard in the highest degree.

Very respectfully submitted.

CHARLES T. HARVEY.

NEW YORK, *March* 5, 1894.







# STATE OF NEW YORK.

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No. 31.

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## IN SENATE,

MARCH 21, 1894.

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### CONCURRENT RESOLUTION.

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By Mr. PERSONS :

WHEREAS, There is a lack of uniformity in the salaries paid by the general government to the clerks in the first and second-class post offices performing the same grade of services; and

WHEREAS, There is a lack of classification of the several clerkships, thereby making a uniformity of salaries impossible; and

WHEREAS, A classification of said clerkships at a fixed compensation, as classified in said first and second-class post offices, has been, from time to time, recommended by the Post Office Department; and

WHEREAS, A bill is now pending in Congress to that end. Now, therefore, be it

*Resolved* (if the Assembly concur), That the Senators and Representatives in Congress be, and they hereby are, respectfully requested to use all proper means to procure the enactment of the "Dunphy bill," H. R. No. 56, entitled "A bill for the classification of clerks in first and second-class post offices and for the fixing of the salaries of the same," a copy of which said bill is hereto annexed.

By order of the Senate.

JOHN S. KENYON,  
*Clerk.*

IN ASSEMBLY, }  
March 22, 1884. }

Passed without amendment.

By order of the Assembly.

G. W. DUNN,  
*Clerk.*

Mr. Dunphy introduced the following bill, for the classification of clerks in first and second-class post offices and for fixing the salaries of the same.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the postmaster-general be, and he is hereby authorized to classify and fix the salaries of the clerks and employes attached to the first-class post offices from and after July first, eighteen hundred and ninety-five, as hereinafter provided:

The assistant postmaster shall receive fifty per centum of the salary of the postmaster, as provided by act of March third, eighteen hundred and eighty-three, except at New York, New York, where the assistant postmaster shall be fixed at three thousand five hundred dollars per annum, and that of the second assistant postmaster at two thousand dollars per annum.

The secretary and stenographer to postmaster at offices where authorized, five classes, salary shall be graded in even hundreds of dollars, at twelve hundred dollars, thirteen hundred dollars, fourteen hundred dollars, fifteen hundred dollars, and not exceeding sixteen hundred dollars per annum, to be classified according to the salary of the postmaster.

Cashiers, five classes, salary shall be graded in even hundreds of dollars, at eighteen hundred dollars, twenty hundred dollars, twenty-two hundred dollars, twenty-four hundred dollars, and not exceeding twenty-six hundred dollars per annum. to be classified according to the salary of the postmaster.

Assistant cashiers, five classes, salary shall be graded in even hundreds of dollars, at twelve hundred dollars, thirteen hundred dollars, fourteen hundred dollars, fifteen hundred dollars, and not exceeding sixteen hundred dollars per annum, to be classified according to the salary of the postmaster.

Superintendents of stamp divisions shall receive thirty-five per centum of the salary of the postmaster.

Stamp agents, as now compensated, shall receive twenty-four dollars per annum.

Superintendents of mails shall receive forty-five per centum of the salary of the postmaster, except at New York, New York, where the salary of the superintendent of mails shall be fixed at three thousand five hundred dollars per annum.

The assistant superintendent of mails shall receive thirty per centum of the salary of the postmaster, except at Washington, District of Columbia, at which office the assistant superintendent of mails shall receive one thousand eight hundred dollars per annum. In no case shall assistant superintendents of mails receive less than one thousand two hundred dollars per annum.

Superintendents of delivery shall receive forty-five per centum of the salary of the postmaster, except at New York, New York, where the salary of the superintendent of delivery shall be fixed at three thousand five hundred dollars per annum.

Assistant superintendents of delivery shall receive thirty per centum of the salary of the postmaster, except at Washington, District of Columbia, at which office he shall receive one thousand eight hundred dollars per annum. In no case shall assistant superintendents of delivery receive a less salary than one thousand two hundred dollars per annum.

Superintendents of registry divisions shall receive forty per centum of the salary of the postmaster.

Assistant superintendents of registry shall receive thirty per centum of the salary of the postmaster, except at New York, New York, where the salary of the first and second assistant superintendents of registry shall be fixed at two thousand four hundred dollars and one thousand eight hundred dollars per annum, respectively.

Superintendents of money-order divisions shall receive forty per centum of the salary of the postmaster, except at New York, New York, where the salary of the superintendent of the money order division shall be fixed at three thousand five hundred dollars per annum.

Assistant superintendents of money-order divisions shall receive thirty per centum of the salary of the postmaster, except at New York, New York, where the salary of the first and second-assistant superintendents of money-order divisions and the chief bookkeeper of money-order division shall be fixed at two thousand four hundred dollars, one thousand eight hundred dollars and one thousand eight hundred dollars, respectively.

Superintendents of stations shall receive a salary from one thousand one hundred dollars per annum to not exceeding two thousand five hundred dollars per annum, graded in even hundreds of dollars.

Clerks in charge of stations shall be graded in even hundreds of dollars, from one hundred to one thousand dollars per annum.

General foremen or chief clerks shall receive a salary of one thousand five hundred dollars per annum.

Printers, six classes, salary shall be graded in even hundreds of dollars, from nine hundred dollars to not exceeding one thousand four hundred dollars per annum.

Pressmen, messengers, watchmen, laborers, janitors, porters, firemen, carpenters, and waste paper examiners, three classes, salary shall be graded in even hundreds of dollars, from six hundred dollars to eight hundred dollars per annum, and general utility employes may be allowed by the department at a salary not exceeding four hundred dollars each, who, after six months' continuous service, may be promoted to the minimum grade of second-class clerks, at a salary of six hundred dollars per annum.

The auditor and draftsman at New York, New York, shall receive three thousand dollars and one thousand two hundred dollars per annum, respectively.

The employes of each post office, except those hereinbefore named, shall be divided by the postmaster, subject to the approval of the postmaster-general, into two classes, to be known as the first-class clerks and second-class clerks. Fifty per centum of the number shall be designated as first-class and fifty per centum as second-class clerks. First-class clerks shall be divided into five grades, as follows:

One-fifth shall receive one thousand four hundred dollars per annum; one-fifth shall receive one thousand three hundred dollars per annum; one-fifth shall receive one thousand two hundred dollars per annum; one-fifth shall receive one thousand one hundred dollars per annum; one-fifth shall receive one thousand dollars per annum.

Second-class clerks shall hereafter enter the service at six hundred dollars per annum, and shall receive an annual increase of one hundred dollars until the maximum salary shall amount to nine hundred dollars per annum, except general utility employes, as herein provided. All appointments to the service shall be made to clerkships of the second-class, and no appointment to the first-class shall be made except by promotion from the second-class. All promotions from the second to first-class, and all promotions within the first-class, shall be made from the next lower grade, upon a basis of efficiency and length of service, under such rules as the postmaster-general may prescribe. No clerk shall receive a less salary after the passage of this act than he was receiving prior thereto, and no clerk shall be reduced from a higher to a lower grade after his assignment thereto unless properly reduced by reason of his inefficiency or inability to perform the duties connected with such higher grade.

## SECOND-CLASS OFFICES.

That the postmaster-general be, and he is hereby, authorized to classify and fix the salaries of the clerks and employes attached to the second-class post offices from and after July first, eighteen hundred and ninety-five, as hereinafter provided:

Chief clerks, six classes, graded in even hundreds of dollars, from one thousand dollars to one thousand five hundred dollars, according to the salary of the postmaster.

Clerks in second-class post offices shall enter the service at six hundred dollars per annum, and shall receive an annual increase of one hundred dollars until they attain an annual salary of nine hundred dollars. This class shall include mailing clerks, letter distributors, dispatchers, registry clerks, stamp clerks, money-order clerks, separators, assorters, paper distributors, and general delivery clerks.

Messengers, porters, watchmen, and laborers shall be graded in three classes, with salary of five hundred dollars, six hundred dollars and seven hundred dollars per annum. And general utility employes may be allowed by the post-office department at a salary not exceeding three hundred dollars who, after six months' continuous service, may be promoted to four hundred dollars per annum; and after twelve months' continuous service, from original employment, may receive the minimum salary of a second-class clerk, namely, six hundred dollars per annum: *Provided*, That when the salaries hereinbefore named, for both first and second-class offices, are adjusted and fixed, no clerk or employe shall be promoted or advanced in grade or salary without the approval of the postmaster-general; and hereafter postmasters at offices of the first and second-class shall submit rosters of the clerks attached to their respective offices to the postmaster-general, to take effect from the first day of the fiscal year, July first, and no roster shall be considered in effect until approved by the postmaster-general. That all clerks and employes hereinbefore named who are in the classified list under the civil service act shall be selected after competitive examination as required by said act.

§ 2. That there be, and there is hereby, appropriated out of any moneys in the treasury not otherwise appropriated, such sum as may be necessary to carry into effect the provisions of this act, and that such appropriation be deemed an annual appropriation.

§ 3. That all acts and parts of acts inconsistent with this act be, and the same are hereby, repealed.







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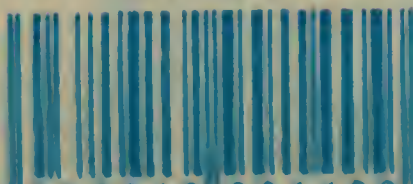








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